FEDERAL REGISTER

VOLUME 32 • NUMBER 210

Saturday, October 28, 1967 • Washington, D.C.

Pages 14917–14995

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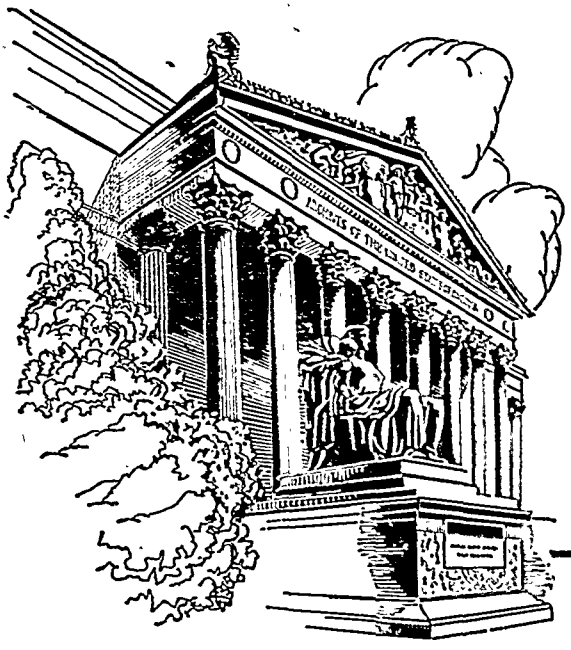

How To Find U.S. Statutes and United States Code Citations

[Revised Edition—1965]

This pamphlet contains typical legal references which require further citing. The official published volumes in which the citations may be found are shown alongside each reference—with suggestions as to the logical sequence to follow in using them. Additional finding aids, some especially useful in citing current legislation, also have been included. Examples are furnished at pertinent points and a list of references, with descriptions, is carried at the end.

This revised edition contains illustrations of principal finding aids and reflects the changes made in the new master table of statutes set out in the 1964 edition of the United States Code.

Price: 10 cents

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

[Published by the Committee on the Judiciary, House of Representatives]

Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1967, and specifies how they are affected.

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Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAMS

PART 709—ASSIGNMENT OF PAYMENT

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AUTHORITY: The provisions of this Part 709 issued under sec. 8(g), 52 Stat. 35, as amended; 52 Stat. 205, 80 Stat. 1167; 16 U.S.C. 590h(g).

§ 709.1 Basis, purpose, and applicability.

The purpose of this part is to state the conditions under which a producer may assign his payment under (a) the Agricultural Conservation Program, Part 701 of this chapter, as amended; (b) the Naval Stores Conservation Program, Part 706 of this chapter, as amended; (c) the Upland Cotton Program, Part 722 of this chapter, as amended; and (d) any other program to which this part is made applicable by the individual program regulations. This document is primarily a reissuance of the substantive rules in effect under §§ 709.1 through 709.30 (20 F.R. 6511, 26 F.R. 5788; basic regulations with four amendments). The sections are renumbered and rearranged and language is clarified as much as possible. A new Form ASCS–36 has been adopted to replace Form ACP–69.

§ 709.2 Definitions.

(a) "Assignor" means any producer who, in accordance with the provisions of this part, assigns the payment due him under any of the programs to which this part is applicable.

(b) "Assignee" means any person, including a Department, bureau, or agency of the Federal Government or any corporation whose stock is wholly owned by the Federal Government, who makes advances to a producer of cash, supplies, services, or land for the purpose of financing the making of a crop, handling or marketing an agricultural commodity, or performing a conservation practice, for the current crop year.

(c) "County office" means the office of the Agricultural Stabilization and Conservation Service for the county in which the assignor's farm is regarded as located for administrative purposes, except that in the case of the Naval Stores Conservation Program, "county office" means the office of the U.S. Forest Service, Valdosta, Ga.

(d) All other words and phrases in this part and in the instructions, forms, and documents in connection therewith, shall have the meanings assigned to them in the regulations governing reconstitution of farms, allotments, and bases, Part 719 of this chapter, as amended.

§ 709.3 Purposes for which a payment may be assigned.

(a) A payment which may be made to a producer under any program to which this part is applicable may be assigned only as security for cash or advances to finance making a crop, handling or marketing an agricultural commodity, or performing a conservation practice, for the current crop year. No assignment may be made to secure or pay any preexisting indebtedness of any nature whatsoever.

(b) To finance making a crop means (1) to finance the planting, cultivating, or harvesting of a crop, including the purchase of equipment required therefor and the payment of cash rent for land used therefor, or (2) to provide food, clothing, and other necessities required by the producer or persons dependent upon him.

(c) Nothing contained herein shall be construed to authorize an assignment given to secure the payment of the whole or any part of the purchase price of a farm or the payment of the whole or any part of a fixed commodity rent for a farm.

§ 709.4 Execution of assignment form.

(a) To be recognized by the United States, the assignment must be made in writing on Form ASCS–36, Assignment of Payment, and filed in the county office prior to the time the county committee approves the making of the payment covered by the assignment.

(b) The assignment shall be signed by both the assignor and the assignee. The assignor's signature shall be witnessed by a member of the county or community ASC committee for the county or community where the farm is located, or by an employee of the county committee. In the case of the Naval Stores Conservation Program, the witness shall be an inspector of the U.S. Forest Service or State forest agency. Notwithstanding any other provision of this paragraph, where the assignee is a bank whose deposits are insured by the Federal Deposit Insurance Corporation, the Farmers Home Administration, or a production credit association supervised by the Farm Credit Administration, the assignment may be witnessed by a bonded officer of the lending institution.

(c) In executing Form ASCS–36, the assignor and the assignee shall agree to notify promptly the county office of any change affecting the assignment.

(d) If prior to the making of payment to the assignee, the assignor represents to the county committee that the indebtedness secured by the assignment has been paid in whole or in part, but that the assignee refuses to execute a new Form ASCS–36 or otherwise authorize a reduction in the amount of the payment assigned, the county committee shall, as soon as practicable, give notice to the assignee of the representations made by the assignor. If, after investigation and opportunity for the assignor and the assignee to be heard, the county committee finds that the indebtedness has been paid in whole or in part, the committee shall notify the assignee and the assignor of such finding, and thereafter such assignment, insofar as concerns the United States, shall be treated as effective only to the extent of the unpaid indebtedness.

§ 709.5 Interest; payment assigned not to be discounted.

(a) Where interest is charged on the amount advanced, the rate of interest must not be in excess of the maximum rate lawfully chargeable under the law of the State where the farm is located.

(b) The payment assigned shall not be discounted by charging the producer more than the current cash price for any supplies furnished or in any other manner whatsoever. This paragraph shall not be construed to prohibit the deducting of interest in advance from any cash advanced.

§ 709.6 Payment to the assignee.

(a) Unless proof is furnished to the county office that the indebtedness secured by the assignment has been paid in full or otherwise discharged, the assignee shall be paid the smaller of the amount specified on Form ASCS–36 or the amount of the payment earned under the program covered by the assignment, less any indebtedness owing by the producer to the United States which may be setoff against the payment in accordance with the regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this title, as amended.

(b) If the indebtedness secured by the assignment is paid in whole or in part without notice to the county office and payment is made to the assignee, the assignee shall receive the payment in trust to pay over promptly to the assignor, or refund to the county office for payment to the assignor, any amount by which the payment made to the assignee exceeds the unpaid indebtedness secured by the assignment.

§ 709.7 Misrepresentations.

If the county committee has reason to believe that any material misrepresentation was made by the assignor or the assignee in executing Form ASCS–36, the committee shall forthwith give notice thereof to the assignor and the assignee. If, after investigation and opportunity for the assignor and assignee to be heard, the county committee finds that any material misrepresentation was in fact made, the committee shall notify the assignor and the assignee of such finding, and thereafter such assignment, insofar as concerns the United States, shall be treated as being void and of no effect.

§ 709.8 Liability of the Secretary or disbursing agents.

Neither the Secretary nor any disbursing agent shall be liable in any suit if payment is made to the assignor without regard to the existence of any assignment, and nothing contained herein shall be construed to authorize any suit against the Secretary or any disbursing agent if payment is not made to the assignee, or if payment is made to only one of several assignees.

Effective date: December 1, 1967.

Signed at Washington, D.C., on October 24, 1967.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 67–12724; Filed, Oct. 27, 1967; 8:46 a.m.]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 59]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Temple and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, except Temple and Murcott Honey oranges, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on October 24, 1967, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effecuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of oranges, except Temple and Murcott Honey oranges, and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.500 Orange Regulation 59.

(a) Order: (1) Orange Regulation 58 (32 F.R. 13701) is hereby terminated October 30, 1967.

(2) During the period October 30, 1967, through September 8, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any oranges, except Temple and Murcott Honey oranges, grown in the production area, which do not grade at least Florida No. 1; or

(ii) Any oranges, except Temple and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2$^{8}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller that such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the United States Standards for Florida Oranges and Tangelos: *Provided,* That in determining the percentage of oranges in any lot which are smaller than 2$^{8}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2$^{4}/_{16}$ inches in diameter and smaller.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, standard pack, and standard box, as used herein, shall have the applicable meaning given to the respective term in the U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title), or in Regulation 105–1.02, as amended, effective January 1, 1966, of the Regulations of the Florida Citrus Commission.

(Secs. 1–19, 48 Stat. 31 as amended; 7 U.S.C. 601–674)

Dated: October 26, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–12803; Filed, Oct. 27, 1967; 8:51 a.m.]

[Tangelo Reg. 34]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of tangelos, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Growers Administrative Committee on October 24, 1967, such meeting was held

to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this regulation, including the effective time hereof are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such tangelos; it is necessary, in order to effecuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of tangelos, and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.501 Tangelo Regulation 34.

(a) Order: (1) Tangelo Regulation 33 (32 F.R. 13702) is hereby terminated October 30, 1967.

(2) During the period beginning October 30, 1967, through July 31, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangelos, grown in the production area, which do not grade at least U.S. No. 1; or

(ii) Any tangelos, grown in the production area, which are of a size smaller than 2$\frac{9}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangelos smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Oranges and Tangelos.

(3) During any week of the aforesaid period, any handler may ship a quantity of tangelos which are smaller than the size prescribed in subdivision (ii) of subparagraph (2) of this paragraph if (i) the number of standard packed boxes of such smaller tangelos does not exceed 25 percent of the total standard packed boxes of all sizes of tangelos shipped by such handler during the same week; and (ii) such smaller tangelos are of a size not smaller than 2$\frac{5}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangelos smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Oranges and Tangelos.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; the term "week" shall mean the 7-day period beginning at 12:01 a.m., local time, on Monday of 1 calendar week and ending at 12:01 a.m., local time, on Monday of the following calendar week; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the amended U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 26, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-12802; Filed, Oct. 27, 1967; 8:51 a.m.]

[Tangerine Reg. 33]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than October 30, 1967. The Growers Administrative Committee held an open meeting on October 24, 1967, to consider recommendations for a regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the regulation recommended by the committees has been disseminated among shippers of tangerines grown in the production area, and this regulation, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective on the date hereinafter set forth so as to provide for the regulation of the handling of tangerines grown in the production area at the start of this marketing season; and compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time hereof.

§ 905.502 Tangerine Regulation 33.

(a) Order: (1) During the period beginning October 30, 1967, through July 31, 1968, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(i) Any tangerines, grown in the production area, which do not grade at least U.S. No. 1; or

(ii) Any tangerines, grown in the production area, which are of a size smaller than 2$\frac{9}{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Tangerines.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, diameter, and standard pack, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Tangerines (§§ 51.1810–51.1834 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 26, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-12801; Filed, Oct. 27, 1967; 8:51 a.m.]

[Valencia Orange Reg. 226]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.526 Valencia Orange Regulation 226.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 26, 1967.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period October 29, 1967, through November 4, 1967, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 450,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 27, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-12842; Filed, Oct. 27, 1967; 11:15 a.m.]

[Lemon Reg. 291]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.591 Lemon Regulation 291.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 24, 1967.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period October 29, 1967, through November 4, 1967, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 53,010 cartons;

(iii) District 3: 158,861 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 26, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67-12804; Filed, Oct. 27, 1967; 8:51 a.m.]

[Grapefruit Reg. 45]

PART 912—GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.345 Grapefruit Regulation 45.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engaged in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time; are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and

compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 26, 1967.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period October 30, 1967, through November 5, 1967, is hereby fixed at 125,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 27, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–12843; Filed, Oct. 27, 1967; 11:15 a.m.]

[Grapefruit Reg. 13]

PART 913—GRAPEFRUIT GROWN IN INTERIOR DISTRICT IN FLORIDA

Limitation of Shipments

§ 913.313 Grapefruit Regulation 13.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 913 (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and after consideration of the recommendations and information submitted by the Interior Grapefruit Marketing Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found, on the basis hereinafter set forth, that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act. The committee reports that the market for Interior grapefruit is slow with excessive supplies in the market; there is seasonal consumer resistance to the purchase of large supplies of fresh grapefruit; and thus additional supplies should not be permitted in the market as they could tend to further depress the market. The current average auction price for Interior grapefruit shows a reduction to $2.76 per ⅘-bushel carton from $3.14 per ⅘-bushel carton at the beginning of the previous week which had declined from a somewhat higher average price for the week prior thereto. A limitation of grapefruit shipments at this time of season would tend to prevent market gluts; and such limitation would also tend to establish and maintain such orderly marketing conditions for such grapefruit as will provide, in the interest of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season so as to avoid unreasonable fluctuations in supplies and prices, which could result in part from an Interior grapefruit crop which is currently estimated to be significantly smaller than that of last year. The committee concluded on the basis of the foregoing and other pertinent factors that shipment of Interior grapefruit should be fixed at 550 carloads (275,000 standard packed boxes); and it so recommended.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Interior grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such Interior grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 24, 1967.

(b) *Order.* (1) The quantity of grapefruit grown in the Interior District which may be handled during the period October 30, 1967, through November 5, 1967, is hereby fixed at 275,000 standard packed boxes.

(2) As used in this section, "handled," "Interior District," "grapefruit," and "standard packed box" have the same meaning as when used in said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 25, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[F.R. Doc. 67–12761; Filed, Oct. 27, 1967; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 7411; Amdt. 21–17]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Conformity of Products to Their Type Designs

The purpose of these amendments to Part 21 of the Federal Aviation Regulations is to specify the showing of conformity to type design data that must be made before an aircraft or part thereof may be presented for type certification tests and to set forth the requirements applicable to the issuance of a standard airworthiness certificate for certain aircraft not built under a type or production certificate.

These amendments are based on a notice of proposed rule making (Notice 66–21) published in the FEDERAL REGISTER on June 8, 1966 (31 F.R. 8075).

One of the comments received in response to the notice expressed concern that the proposed change to § 21.33(a) might be interpreted as requiring that all aircraft presented for a flight test must completely conform to the type design. It was pointed out that under present practice, aircraft that do not fully conform to the type design but which, to the satisfaction of all FAA personnel involved, sufficiently conform to achieve the necessary test results and which have been determined by the FAA to be safe for flight, may be tested.

While complete conformity is, of course, desirable, the FAA recognizes that conformity to all the type design data at any given point during a test program may not be possible in all cases. Therefore, the proposed regulation expressly provided for deviations where authorized by the Administrator. This is consistent with the present practice and assures that the FAA is made aware of the extent to which an aircraft or part thereof does not conform to the submitted type design data prior to testing.

Contrary to the views expressed in one of the comments, the proposed change to § 21.33(a) is not directed to manufacturers producing aircraft under type or production certificates. The proposal is concerned with conformity of aircraft prior to testing during the type certification program and not with the

conformity of production aircraft. Moreover, there is no change to the present procedures governing the approval of engineering changes and drawings by a Designated Engineering Representative (DER) during type certification intended under this amendment.

Another comment concerned the proposal to delete the word "flight" in § 21.33(a) to make it clear that each applicant must allow the Administrator to make any tests, ground or flight, necessary to determine that an aircraft meets the applicable requirements. In this connection, it was suggested that rather than delete the word "flight" it would be more appropriate to refer to both "flight" and "ground" tests. The FAA sees merit in this suggestion and the proposal has been changed accordingly.

One of the comments received questioned the need for the amendments concerning the statements of conformity on the grounds that the present FAA Form 317 contains the same detail as that proposed. However, contrary to this commentator's understanding, the present FAA Form 317 does not contain all the details concerning statements of conformity proposed in Notice 66–21. Moreover, even though the FAA Form 317 has been revised to accommodate the proposal, the FAA considers that the requirements concerning the statements of conformity should be set forth in the FARs.

Numerous comments were received objecting to the proposed amendment to § 21.183 in the belief that it was designed to change the present requirements concerning the certification of modified "surplus military helicopters". These comments invariably requested the retention of the present rules insofar as the airworthiness certification of such surplus military aircraft is concerned. As expressly pointed out in the preamble to Notice 66–21, it is not the intent of the FAA to change the regulations governing the airworthiness certification of aircraft which were used in military service and later released for civil use. Surplus military aircraft are currently covered under § 21.183(d) and the proposal would merely redesignate paragraph (d) as paragraph (e) without any change to the substantive provisions of that paragraph. On the other hand, the FAA did propose to add a new paragraph (c) to § 21.183 applicable to aircraft built from spare and surplus parts. Such aircraft are currently being certificated in accordance with the broad provisions of paragraph (d) of § 21.183 which merely requires evidence that the aircraft conform to a type design. However, since aircraft built from spare and surplus parts may, in many cases, be built entirely outside of any approved system designed to ensure conformity, the FAA believed that the industry should have the benefit of a more definitive regulation when applying for certification of such aircraft. For this reason, a new paragraph (c) was proposed describing in detail the kind of evidence needed to show conformity of an aircraft built from spare and surplus parts to a type design. This proposal was issued in the belief that aircraft built from spare and surplus parts are sufficiently definable as a class to differentiate them from the other aircraft covered under the proposed new paragraph (e). However, such is not the case. From the comments received in response to the notice, it is apparent that considerable confusion exists concerning the applicability of the proposed new paragraph (c), particularly with respect to aircraft obtained as surplus from the military, but modified for commercial use by the incorporation of spare and surplus parts. For the foregoing reasons, the FAA is aware that adoption of this aspect of the proposal would not be appropriate at this time. However, as the notice pointed out, the FAA is currently administering the detailed procedures set forth in the proposal under the broad requirements of paragraph (d) of the present rule. There was no intent to change these detailed procedures and since, as the notice stated, they are necessary to provide the same degree of assurance of conformity to approved type design data as is now provided for aircraft individually produced under a type certificate only, they will continue to be administered in appropriate cases under the requirements of paragraph (d).

In addition to the foregoing, the provisions of paragraphs (a) and (b) of § 21.183 are amended as proposed to make it clear that they apply to newly manufactured aircraft. Paragraph (a) is also amended to make it clear that the Administrator's power to inspect the aircraft is not limited to inspections for conformity to type design but includes inspections to determine condition for safe operation. Paragraph (b) is also amended as proposed to make it clear that the statement of conformity referred to is the same statement of conformity prescribed in § 21.130 and, as such, must be submitted by the holder or licensee of the type certificate.

As proposed in the notice, § 21.53 required each applicant for a type certificate to submit a statement of conformity for each aircraft presented to the Administrator for tests. On the other hand, the proposal also required an applicant for a supplemental type certificate (STC) to meet § 21.53 with respect to each change in the type design. Thus, the proposal could be read as requiring that an applicant for an STC must, with respect to each and every change in the type design of an aircraft, submit a statement of conformity for the entire aircraft. This was not intended by the FAA, and the requirements of § 21.53 have been changed to make it clear that the statement of conformity is required for each aircraft or part thereof presented to the Administrator for tests.

In response to comments received, the requirements set forth with respect to import aircraft have been changed to refer to "standard" airworthiness certificates rather than "original" airworthiness certificates to make them consistent with the other requirements of that section.

In connection with the proposal to amend the supplemental type certification (STC) requirements, one comment expressed the opinion that the proposed rules would prohibit changes to an aircraft between the time that the statement of conformity governing the STC modification is submitted and the time that the appropriate tests are performed. Actually, the proposal is concerned only with changes between the time that a showing of compliance with the appropriate design data is shown and the time the aircraft is presented for tests. Under the proposal, the statement of conformity need not be submitted until the time for conducting the necessary tests has been established. Therefore, there need not be any appreciable lapse of time between the submission of the statement of conformity and the date the FAA tests are conducted.

Other minor changes of an editorial or clarifying nature have been made. They are not substantive and do not impose an additional burden on any person.

Interested persons have been afforded the opportunity to participate in the making of this amendment. All relevant material submitted has been fully considered.

In consideration of the foregoing, Part 21 of the Federal Aviation Regulations is amended effective January 26, 1968, as follows:

1. By amending § 21.33(a) to read as follows:

§ 21.33 Inspection and tests.

(a) Each applicant must allow the Administrator to make any inspection and, in the case of aircraft, any flight and ground tests necessary to determine compliance with the applicable requirements of the Federal Aviation Regulations. However, unless otherwise authorized by the Administrator—

(1) No aircraft or part thereof may be presented to the Administrator for tests unless compliance with paragraph (b) (2) through (4) of this section has been shown for that aircraft or part thereof; and

(2) No change may be made to an aircraft or part thereof between the time that compliance with paragraph (b) (2) through (4) of this section is shown for that aircraft or part thereof and the time that the aircraft or part thereof is presented to the Administrator for tests.

* * * * *

2. By amending § 21.53 to read as follows:

§ 21.53 Statement of conformity.

(a) Each applicant must submit a statement of conformity (FAA Form 317) to the Administrator for each aircraft engine and propeller presented to the Administrator for type certification. This statement of conformity must include a statement that the aircraft engine or propeller conforms to the type design therefor.

(b) Each applicant must submit a statement of conformity to the Administrator for each aircraft or part thereof presented to the Administrator for tests.

This statement of conformity must include a statement that the applicant has complied with § 21.33(a) (unless otherwise authorized under that paragraph).

3. By amending § 21.115 to read as follows:

§ 21.115 Applicable airworthiness requirements.

(a) Each applicant for a supplemental type certificate must show that the altered product meets applicable airworthiness requirements as specified in paragraphs (a) and (b) of § 21.101.

(b) Each applicant for a supplemental type certificate must meet §§ 21.33 and 21.53 with respect to each change in the type design.

4. By amending § 21.130 to read as follows:

§ 21.130 Statement of conformity.

Each holder or licensee of a type certificate only shall, upon the initial transfer by him of the ownership of each product manufactured under that type certificate, or upon application for the original issue of an aircraft airworthiness certificate or an aircraft engine or propeller airworthiness approval tag (FAA Form 186), give the Administrator a statement of conformity (FAA Form 317). This statement must be signed by an authorized person who holds a responsible position in the manufacturing organization, and must include—

(a) For each product, a statement that the product conforms to its type certificate and is in condition for safe operation;

(b) For each aircraft, a statement that the aircraft has been flight checked; and

(c) For each aircraft engine or variable pitch propeller, a statement that the engine or propeller has been subjected by the manufacturer to a final operational check.

However, in the case of a product manufactured for an Armed Force of the United States, a statement of conformity is not required if the product has been accepted by that Armed Force.

5. By amending § 21.183 to read as follows:

§ 21.183 Issue of standard airworthiness certificates for normal, utility, acrobatic, and transport category aircraft.

(a) *New aircraft manufactured under a production certificate.* An applicant for a standard airworthiness certificate for a new aircraft manufactured under a production certificate is entitled to a standard airworthiness certificate without further showing, except that the Administrator may inspect the aircraft to determine conformity to the type design and condition for safe operation.

(b) *New aircraft manufactured under type certificate only.* An applicant for a standard airworthiness certificate for a new aircraft manufactured under a type certificate only is entitled to a standard airworthiness certificate upon presentation, by the holder or licensee of the type certificate, of the statement of conformity prescribed in § 21.130 if the Administrator finds after inspection that the aircraft conforms to the type design and is in condition for safe operation.

(c) *Import aircraft.* An applicant for a standard airworthiness certificate for an import aircraft type certificated in accordance with § 21.29 is entitled to an airworthiness certificate if the country in which the aircraft was manufactured certifies, or the Administrator finds, that the aircraft conforms to the type design and is in condition for safe operation.

(d) *Other aircraft.* An applicant for a standard airworthiness certificate for aircraft not covered by paragraphs (a) through (c) of this section is entitled to a standard airworthiness certificate if—

(1) He presents evidence to the Administrator that the aircraft conforms to a type design approved under a type certificate or a supplemental type certificate and to applicable Airworthiness Directives;

(2) The aircraft (except an experimentally certificated aircraft that previously had been issued a different airworthiness certificate under this section) has been inspected and found airworthy—

(i) By the manufacturer;

(ii) By an appropriately certificated domestic repair station;

(iii) By a certificated Air carrier having adequate overhaul facilities and having a maintenance and inspection organization appropriate to the aircraft type; or

(iv) In the case of a single-engine airplane, by the holder of an inspection authorization issued under Part 65 of this chapter; and

(3) The Administrator finds after inspection, that the aircraft conforms to the type design, and is in condition for safe operation.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

NOTE: The recordkeeping and reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued in Washington, D.C., on October 23, 1967.

WILLIAM F. MCKEE,
Administrator.

[F.R. Doc. 67-12721; Filed, Oct. 27, 1967; 8:45 a.m.]

[Docket No. 67-CE-AD-8; Amdt. 39-487]

PART 39—AIRWORTHINESS DIRECTIVES

Weston-Garwin Carruth Model 22-374 Series Altimeters

Amendment 39-479 (32 F.R. 13183), requires modification or replacement of those Model 22-374 altimeters which have not been modified and marked with a white "M-1" on the back of the instrument, produced by Weston-Garwin Carruth Division. At the time of issuance the agency had been advised that the instruments in question had been installed on those Cessna, Beech, Mooney, and Aero Commander aircraft and Bell Model helicopters listed in the AD. Following the issuance of Amendment 39-479, it appeared that they may have been installed on other aircraft produced by Cessna Aircraft Corp. and Beech Aircraft Corp. After discussions with Cessna, Beech, and the altimeter manufacturer, the agency has determined that the airworthiness directive must be amended so as to clarify its applicability and to include certain model airplanes and their serial numbers, where available, which were either incorrectly listed or omitted from the applicability statement.

Model identification of the 22-374 series altimeter varies. These instruments may be identified as 22-374, 22-374A, or 22-374B and contain additional suffix or adjunct material. According to the manufacturer, they may even lack the prefix 22-. Since the problem caused by the AD exists in all unmodified Model 22-374 series altimeters, the AD is being revised to remove any doubts as to its applicability by adding the word "series" between Model 22-374 and altimeter wherever this phrase appears in the AD. It should be noted that the Model 22-374 series altimeter may contain the name of the aircraft manufacturer on the face of the instrument when it is installed in certain of the model aircraft listed in the AD.

While Cessna is unable to identify with certainty the serial numbers of its commercial model airplanes in which the affected altimeters are installed, Cessna has advised that the applicability statement of the airworthiness directive as to Cessna commercial model airplanes should remain unchanged. However, to assist operators of Cessna commercial and military model airplanes in determining if their aircraft are affected by the AD, Cessna has issued Service Letter 67-52 dated September 23, 1967, which identifies affected single engine aircraft and Super Skymaster by model number and multiengine aircraft except Super Skymaster by model and serial number. To the extent that the information in the service letter is different, the applicability statement of Amendment 39-479 should be supplemented and the service letter is being incorporated therein by reference.

Finally, Beech has furnished the agency one additional model airplane with serial numbers and corrected serial numbers on their Model V35 aircraft for inclusion in the applicability statement of the AD.

Since these revisions to the AD are clarifying in nature, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to authority delegated to me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-479 (32 F.R. 13183), is amended as follows:

1. Add the word "series" between Model 22–374 and altimeter(s) anywhere the phrase appears in the AD.

2. Modify the applicability statement by incorporating therein by reference Cessna Service Letter 67–52 dated September 23, 1967.

3. Modify the applicability statement by correcting the Beech Model V35 serial numbers to read "Serial Nos. D8250 through D8574 except D8567 and D8571" and adding thereto "Beech Model 95–B55, Serial Nos. TC–1005 through TC–1039 aircraft."

This amendment becomes effective October 27, 1967.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Kansas City, Mo., on October 20, 1967.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 67–12722; Filed, Oct. 27, 1967; 8:46 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 8493; Amdt. 95–160]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current change-over points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective December 7, 1967, as follows:

1. By amending Subpart C as follows:

Section 95.48 *Green Federal airway 8* is amended to read in part:

From, to, and MEA

King Salmon, Alaska, LFR; Big Mountain, Alaska, LF/RBN; 4,500.
Big Mountain, Alaska, LF/RBN; Kakhonak INT, Alaska; 5,000.
Kakhonak INT, Alaska; Homer, Alaska, LFR; 6,000.
Homer, Alaska, LFR; Kenai, Alaska, LFR; 4,000.

Section 95.240 *Red Federal airway 40* is amended to read in part:

Kodiak, Alaska, LFR; Dark Island INT, Alaska; 4,000.
Dark Island INT, Alaska; Homer, Alaska, LFR; 6,000.

Section 95.299 *Red Federal airway 99* is amended to read:

From, to, and MEA

Big Mountain, Alaska, LF/RBN; Iliamna, Alaska; LF/RBN; 4,000.
Iliamna, Alaska, LF/RBN; Kakhonak INT, Alaska, northwestbound 5,000, southeastbound 6,000.

Section 95.627 *Blue Federal airway 27* is amended to read in part:

*Kodiak, Alaska, LFR; King Salmon, Alaska, LFR; 9,000. *4,000—MCA Kodiak LFR, Westbound.

Section 95.665 *Blue Federal airway 65* is deleted:

Section 95.1001 *Direct routes—United States* is amended by adding:

Bagby INT, Calif.; Fresno, Calif., VOR; *7,000. *6,200—MOCA.
Campo INT, Calif.; Int, 124° M rad, Linden VOR and 322° M rad, Castle VOR; 5,000.
*Campo INT, Calif.; Friant, Calif., VOR; **12,000. *12,000—MCA Campo INT, southeast bound. **6,200—MOCA.
Eglin AFB, Fla., VOR; Glendale INT, Fla.; *2,000. *1,700—MOCA.
Saufley, Fla., VOR; Eglin AFB, Fla., VOR; *2,000 *1,500—MOCA
Harold INT, Fla.; Eglin AFB, Fla., VOR; *2,000. *1,400—MOCA.
Eglin AFB, Fla., VOR; Montgomery, Ala., VOR COP, 58 NM MGM; 2,500.
Honey INT, Tex.; Gilberg INT, Tex.; *2,200. *1,600—MOCA.
Woodward INT, Calif.; Sacramento, Calif., VOR; *3,000. *2,600—MOCA.

Section 95.1001 *Direct routes—United States* is amended to read in part:

Columbia, S.C., VOR; *Langley INT, S.C.; **2,000. *2,900—MCA Langley INT, southwestbound. **1,700—MOCA.

Section 95.6001 *VOR Federal airway 1* is amended to read in part:

Cape Charles, Va.; VOR; Int, 013° M rad, Cape Charles VOR and 214° M rad, Salisbury VOR; *2,000. *1,800—MOCA.
Int, 013° M rad, Cape Charles VOR and 214° M rad, Salisbury VOR; Crisfield INT, Md.; *2,000. *1,700—MOCA.
Crisfield INT, Md.; Salisbury, Md., VOR; 2,000.

Section 95.6002 *VOR Federal airway 2* is amended to read in part:

Jamestown, N. Dak., VOR, via N alter.; Fargo, N. Dak., VOR, via N alter.; *3,200. *2,800—MOCA.

Section 95.6004 *VOR Federal airway 4* is amended to read in part:

Malad City, Idaho, VOR, via S alter.; *Cornish INT, Utah, via S alter.; 10,100. *10,700—MCA Cornish INT, eastbound.
Denver, Colo., VOR; Byers INT, Colo.; 7,500.
Byers INT, Colo.; Thurman, Colo., VOR; 7,000.
Thurman, Colo., VOR; Goodland, Kans., VOR; *7,000. *6,000—MOCA.

Section 95.6006 *VOR Federal airway 6* is amended to read in part:

Carson INT, Iowa; *Lyman INT, Iowa; **3,000. *3,500—MRA. **2,600—MOCA.

Section 95.6008 *VOR Federal airway 8* is amended to read in part:

Carson INT, Iowa; *Lyman INT, Iowa; **3,000. *3,500—MRA. **2,600—MOCA.
Denver, Colo. VOR via S alter.; Byers INT, Colo., via S alter.; 7,500.

From, to, and MEA

Byers INT, Colo., via S alter.; Akron, Colo., VOR via S alter.; 7,000.
Akron, Colo., VOR via S alter.; Int, 081° M rad, Akron VOR and 235° M rad, Hayes Center VOR, via S alter.; *6,500. *6,700—MOCA.
Int, 081° M rad, Akron VOR and 235° M rad, Hayes Center VOR, via S alter.; Hayes Center, Nebr., VOR, via S alter.; *7,000. *6,000—MOCA.
Ashburn INT, Md.; Washington, D.C., VOR; 2,200.

Section 95.6009 *VOR Federal airway 9* is amended to read in part:

Greenwood, Miss., VOR via E alter.; Sardis INT, Miss., via E alter.; *2,000. *1,600—MOCA.
Sardis INT, Miss., via E alter.; Independence INT, Miss., via E alter.; *2,000. *1,700—MOCA.

Section 95.6012 *VOR Federal airway 12* is amended by adding:

Booneville INT, Mo., via S alter.; Jamestown INT, Mo., via S alter.; *4,000. *2,300—MOCA.
Jamestown INT, Mo., via S alter.; Jefferson City, Mo., VOR via S alter.; *2,400. *2,000—MOCA.
Jefferson City, Mo., VOR via S alter.; Guthrie INT, Mo., via S alter.; *3,000. *2,800—MOCA.
Guthrie INT, Mo., via S alter.; Readsville INT, Mo., via S alter.; *4,000. *2,100—MOCA.

Section 95.6012 *VOR Federal airway 12* is amended to read in part:

Anthony, Kans., VOR; *Milton INT, Kans.; **3,000. *3,400—MRA. **2,500—MOCA.
*Lava INT, N. Mex., via S alter.; Grants, N. Mex., VOR via S alter.; **12,000. *12,000—MRA. **10,700—MOCA.

Section 95.6013 *VOR Federal airway 13* is amended to read in part:

Houston, Tex., VOR via E alter.; *Crosby INT, Tex., via E alter.; 1,600. *2,000—MRA.

Section 95.6015 *VOR Federal airway 15* is amended to read in part:

Sealy INT, Tex., via W alter.; Independence INT, Tex., via W alter.; *3,500. *1,700—MOCA.

Section 95.6016 *VOR Federal airway 16* is amended to read in part:

Hope INT, Ark.; *Grapevine INT, Ark.; **7,000 *6,000—MCA Grapevine INT, southwestbound. **1,800—MOCA.
Millis INT, Mass.; Boston, Mass., VOR; *2,300. *1,800—MOCA.

Section 95.6019 *VOR Federal airway 19* is amended to read in part:

Kiowa, Colo., VOR; Denver, Colo., VOR; *8,000. *7,700—MOCA.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

Fry INT, Tex.; Beaumont, Tex., VOR; *1,600. *1,300—MOCA.
Houston, Tex., VOR via N alter.; *Crosby INT, Tex., via N alter.; 1,600. *2,000—MRA.
Crosby INT, Tex., via N alter.; Beaumont, Tex., VOR via N alter.; *2,000. *1,300—MOCA.
Beaumont, Tex., VOR via N alter.; Orange INT, Tex., via N alter.; *1,500. *1,400—MOCA.
Orange INT, Tex., via N alter.; Sulphur INT, Tex., via N alter.; *1,500. *1,300—MOCA.

Section 95.6023 *VOR Federal airway 23* is amended to read in part:

From, to, and MEA

Eugene, Oreg., VOR via W alter.; Corvallis, Oreg., VOR via W alter.; 3,400.

Section 95.6029 *VOR Federal airway 29* is amended to read in part:

Pocono INT, Pa.; Lake Henry, Pa., VOR; *2,000. *1,800—MOCA.
Lake Henry, Pa., VOR; Binghamton, N.Y., VOR; 4,000.

Section 95.6036 *VOR Federal airway 36* is amended to read in part:

Dalton INT, N.Y.; Lake Henry, Pa., VOR; 4,000.
Lake Henry, Pa., VOR; Sussex INT, N.J.; 4,000.

Section 95.6045 *VOR Federal airway 45* is amended to read in part:

Saginaw, Mich., VOR; Shoreline INT, Mich.; *2,200. *2,100—MOCA.
Shoreline INT, Mich.; Alpena, Mich., VOR; *3,500. *2,200—MOCA.
Saginaw, Mich., VOR via W alter.; Bentley INT, Mich., via W alter.; *2,200. *1,900—MOCA.
Bentley INT, Mich. via W alter.; Red Oak INT, Mich., via W alter.; *3,000. *2,600—MOCA.

Section 95.6053 *VOR Federal airway 53* is amended to delete:

Columbia, S.C., VOR via W alter.; Lexington INT, S.C., via W alter.; *2,200. *1,900—MOCA.
Lexington INT, S.C., via W alter.; Greenwood, S.C., VOR via W alter.; *2,200. *2,100—MOCA.
Greenwood, S.C., VOR via W alter.; *Inman INT, S.C., via W alter.; **3,000. *4,000—MCA Inman INT, northbound. **2,500—MOCA.
Inman INT, S.C., via W alter.; Asheville, N.C., VOR via W alter.; 6,000.

Section 95.6056 *VOR Federal airway 56* is amended to read in part:

Fayetteville, N.C., VOR; Wallace INT, N.C.; *3,000. *2,500—MOCA. MAA—4,000.
Wallace INT, N.C., Oak Grove INT, N.C.; *3,000. *2,500—MOCA. MAA—8,000.

Section 95.6058 *VOR Federal airway 58* is amended to read in part:

Lopez INT, Pa.; Lake Henry, Pa., VOR; 4,000.
Lake Henry, Pa., VOR; Pawling, N.Y., VOR; 4,000.

Section 95.6062 *VOR Federal airway 62* is amended to read in part:

*Mill INT, Tex.; Joshua INT, Tex.; **3,500. *3,500—MRA. **2,400—MOCA.

Section 95.6063 *VOR Federal airway 63* is amended to read in part:

Eldon INT, Mo.; Jamestown INT, Mo.; *3,000. *2,200—MOCA.
Jamestown INT, Mo.; Wilton INT, Mo.; *2,700. *2,200—MOCA.

Section 95.6070 *VOR Federal airway 70* is amended to read in part:

Picayune, Miss., VOR; Greene County, Miss., VOR; *10,000. *9,500—MOCA.

Section 95.6071 *VOR Federal airway 71* is amended to read in part:

New Market INT, Mo.; Huron INT, Kans.; *2,600. *2,100—MOCA.

Section 95.6077 *VOR Federal airway 77* is amended to read in part:

Conway INT, Kans.; *Milton INT, Kans.; **3,400. *3,400—MRA. **2,500—MOCA.

Section 95.6081 *VOR Federal airway 81* is amended to read in part:

From, to, and MEA

Palo Duro INT, Tex., via E alter.; Amarillo, Tex., VOR via E alter.; 4,900.

Section 95.6094 *VOR Federal airway 94* is amended to read in part:

*Mill INT, Tex.; Joshua INT, Tex.; **3,500. *3,500—MRA. **2,400—MOCA.

Section 95.6106 *VOR Federal airway 106* is amended to read in part:

Thornhurst, Pa., VOR; Lake Henry, Pa., VOR; 4,000. Lake Henry, Pa., VOR; Pawling, N.Y., VOR; 4,000.

Section 95.6114 *VOR Federal airway 114* is amended to read in part:

Amarillo, Tex., VOR; Claude INT, Tex.; 4,900.
Amarillo, Tex., VOR via S alter.; Finley INT, Tex., via S alter.; 4,900.

Section 95.6116 *VOR Federal airway 116* is amended to read in part:

Stonyfork, Pa., VOR; Lake Henry, Pa., VOR; 4,000.
Lake Henry, Pa., VOR; Sussex INT, N.J.; 4,000.

Section 95.6126 *VOR Federal airway 126* is amended to read in part:

Stonyfork, Pa., VOR; Lake Henry, Pa., VOR; 4,000.
Lake Henry, Pa., VOR; Huguenot, N.Y., VOR; 4,000.

Section 95.6148 *VOR Federal airway 148* is amended to read in part:

Kiowa, Colo., VOR; Shaw INT, Colo.; 7,900.
Shaw INT, Colo.; Thurman, Colo., VOR; 7,000.
Thurman, Colo., VOR; Hayes Center, Nebr., VOR; *7,000. *6,000—MOCA.

Section 95.6153 *VOR Federal airway 153* is amended to read in part:

Stillwater, N.J., VOR; Lake Henry, Pa., VOR; 3,800.
Lake Henry, Pa., VOR; Greene INT, N.Y.; 4,000.

Section 95.6157 *VOR Federal airway 157* is amended to read in part:

Richmond, Va., VOR; Grubbs INT, Va.; 2,000.
Grubbs INT, Va.; Ironsides INT, Md.; 2,500.
Ironsides INT, Md.; Doncaster INT, Md.; 2,000.

Section 95.6165 *VOR Federal airway 165* is amended to read in part:

*Coarsegold INT, Calif.; Marklee INT, Nev.; **16,000. *8,500—MCA Coarsegold INT, northbound. **13,000—MOCA.
Marklee INT, Nev.; *Reno, Nev., VOR; **13,000. *10,000—MCA Reno VOR, southbound. **11,000—MOCA.

Section 95.6182 *VOR Federal airway 182* is amended to read in part:

The Dalles, Oreg., VOR; *Brenner INT, Oreg.; 5,300. *5,700—MRA.
Brenner INT, Oreg.; *Ukiah INT, Oreg.; 8,000. *11,500—MCA Ukiah INT, eastbound.

Section 95.6190 *VOR Federal airway 190* is amended to read in part:

St. Johns, Ariz., VOR via N alter.; *Lava INT, N. Mex., via N alter.; **11,000. *12,000—MRA. **9,500—MOCA.
Lava INT, N. Mex., via N alter.; Grants, N. Mex., VOR via N alter.; *12,000. *10,700—MOCA.

Section 95.6194 *VOR Federal airway 194* is amended to delete:

From, to, and MEA

Norfolk, Va., VOR; Gwynn INT, Va.; 2,000.

Section 95.6194 *VOR Federal airway 194* is amended by adding:

Norfolk, Va., VOR; Gwynn INT, Va.; *2,000. *1,700—MOCA.
Gwynn INT, Va.; Int, 219° M rad, Snow Hill, Md., VOR and 032° M rad, Harcum VOR; *2,700. *1,800—MOCA.

Section 95.6195 *VOR Federal airway 195* is amended to read in part:

Cordelia INT, Calif.; *Berryessa INT, Calif.; **6,500. *6,500—MCA Berryessa INT, Southbound. **4,800—MOCA.
Berryessa INT, Calif.; Williams, Calif., VOR; *6,000. *5,100—MOCA.

Section 95.6222 *VOR Federal airway 222* is amended to delete:

Industry, Tex., VOR; Sealy INT, Tex.; *2,000. *1,600—MOCA.
Sealy INT, Tex.; Houston, Tex., VOR; *2,000. *1,800—MOCA.
Houston, Tex., VOR; Fry INT, Tex.; 1,600.
Fry INT, Tex.; Beaumont, Tex., VOR; *1,600. *1,300—MOCA.
Houston, Tex., VOR via N alter.; *Crosby INT, Tex., via N alter.; 1,600. *1,900—MRA.
Crosby INT, Tex., via N alter.; Dalsetta, Tex., VOR via N alter.; *1,800. *1,300—MOCA.

Section 95.6222 *VOR Federal airway 222* is amended by adding:

Industry, Tex., VOR; Cypress INT, Tex.; *2,500. *1,800—MOCA.
Cypress INT, Tex.; *Crosby INT, Tex.; **5,000. *2,000—MRA. **1,800—MOCA.
Crosby INT, Tex.; Beaumont, Tex., VOR; *2,000. *1,300—MOCA.
Cypress INT, Tex., via N alter.; Dalsetta, Tex., VOR via N alter.; *2,500. *1,500—MOCA.

Section 95.6289 *VOR Federal airway 289* is amended to read in part:

Beaumont, Tex., VOR; Kountze INT, Tex.; 1,600.
Kountze INT, Tex.; Lufkin, Tex., VOR; *2,500. *1,600—MOCA.
Beaumont, Tex., VOR via E alter.; Silsbee INT, Tex., via E alter.; 1,600.
Silsbee INT, Tex., via E alter.; Lufkin, Tex., VOR via E alter.; *2,500. *1,700—MOCA.

Section 95.6297 *VOR Federal airway 297* is amended to read in part:

Saginaw, Mich., VOR; Bentley INT, Mich.; *2,200. *1,900—MOCA.
Bentley INT, Mich.; Pellston, Mich., VOR; *3,000. *2,600—MOCA.

Section 95.6306 *VOR Federal airway 306* is amended by adding:

Dalsetta, Tex., VOR; Kountze INT, Tex.; *1,600. *1,400—MOCA.
Kountze INT, Tex.; Orange INT, Tex.; *2,200. *2,000—MOCA.
Orange INT, Tex.; Sulphur INT, Tex.; *1,500. *1,300—MOCA.
Sulphur INT, Tex.; Lake Charles, La., VOR; *1,500. *1,400—MOCA.
Dalsetta, Tex., VOR via S alter.; Beaumont, Tex., VOR via S alter.; *1,600. *1,400—MOCA.
Beaumont, Tex., VOR via S alter.; Lake Charles, La., VOR via S alter.; *1,500. *1,400—MOCA.

Section 95.6317 *VOR Federal airway 317* is amended to read in part:

From, to, and MEA

Eyak INT, Alaska; Johnstone Point, Alaska, VOR; 5,000.
Johnstone Point, Alaska, VOR; Storey INT, Alaska; *5,000. *4,000—MOCA.
Johnstone Point, Alaska, VOR via S alter.; Knight INT, Alaska, via S alter.; *5,000. *2,000—MOCA.

Section 95.6455 *VOR Federal airway 455* is amended to read in part:

Picayune, Miss., VOR; Hattiesburg, Miss., VOR; *2,000. *1,900—MOCA.

Section 95.6457 *VOR Federal airway 457* is amended to read in part:

Millis INT, Mass.; Boston, Mass., VOR; *2,300. *1,800—MOCA.

Section 95.6480 *VOR Federal airway 480* is amended to read in part:

Cabin DME Fix, Alaska; Aniak INT, Alaska; *4,000. *2,300—MOCA.
Aniak INT, Alaska; Joaquin DME Fix, Alaska; *8,000. *5,600—MOCA.

Section 95.6500 *VOR Federal airway 500* is amended to read in part:

*Squaw Mountain DME Fix, Oreg.; **Gateway INT, Oreg.; ***10,000. *7,800—MCA Squaw Mountain DME Fix, eastbound. **10,000—MRA. **10,000—MCA Gateway INT, westbound. ***7,600—MOCA.
Gateway INT, Oreg.; *John Day, Oreg., VOR; **8,500. *V–500—MCA 7,900 westbound for aircraft arriving John Day VOR, southeastbound via V–497. **7,900—MOCA.

Section 95.7011 *Jet Route No. 11* is amended by adding:

From, to, MEA, and MAA

Tucson, Ariz., VORTAC; Phoenix, Ariz., VORTAC; 18,000; 45,000.

Section 95.7015 *Jet Route No. 15* is amended to read in part:

John Day, Oreg., VORTAC; Portland, Oreg., VORTAC; 18,000; 45,000.

Section 95.7026 *Jet Route No. 26* is amended to read in part:

El Paso, Tex., VORTAC; Roswell, N. Mex., VORTAC; 18,000; 45,000.

Section 95.7111 *Jet Route No. 111* is amended to read in part:

Nome, Alaska, VORTAC; Unalakleet, Alaska, VOR; 18,000; 45,000.
Unalakleet, Alaska, VOR; McGrath, Alaska, VORTAC; 18,000; 45,000.

Section 95.7501 *Jet Route No. 501* is amended to read in part:

Yakutat, Alaska, VORTAC; Johnstone Point, Alaska, VOR; 18,000; 45,000.
Johnstone Point, Alaska, VOR; Anchorage, Alaska, VORTAC; 18,000; 45,000.

2. By amending Subpart D as follows:

Section 95.8003 *VOR Federal airway changeover points:*

Airway Segment: From; to—Changeover point: Distance; from

V–16 is amended by adding:
Texarkana, Ark., VOR; Pine Bluff, Ark., VOR; 62; Texarkana.
V–29 is amended to read in part:
Allentown, Pa., VOR; Lake Henry, Pa., VOR; 20; Allentown.
V–148 is amended by adding:
Kiowa, Colo., VOR; Thurman, Colo., VOR; 46; Kiowa.
Thurman, Colo., VOR; Hayes Center, Nebr., VOR; 65; Thurman.
V–154 is amended by adding:
Dublin, Ga., VOR; Savannah, Ga., VOR; 58; Dublin.
V–157 is amended to delete:
Washington, D.C., VOR; Baltimore, Md., VOR; 10; Washington.
V–157 is amended to read in part:
Richmond, Va., VOR; Washington, D.C., VOR; 52; Richmond.
V–182 is amended by adding:
The Dalles, Oreg., VOR; Baker, Oreg., VOR; 39; Baker.
V–317 is amended to read in part:
Yakutat, Alaska, VOR; Johnstone Point, Alaska, VOR; 119; Yakutat.
V–476 is amended to delete:
Washington, D.C., VOR; Baltimore, Md., VOR; 10; Washington.

(Secs. 307, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on October 23, 1967.

W. E. ROGERS,
Acting Director,
Flight Standards Service.

[F.R. Doc. 67–12670; Filed, Oct. 27, 1967; 8:45 a.m.]

SUBCHAPTER G—AIR CARRIER AND COMMERCIAL OPERATOR CERTIFICATION AND OPERATIONS

[Docket No. 7522; Amdt. 121–35]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Additional Emergency Exits; Extension of Effective Date

The purpose of this amendment is to extend to February 1, 1968, the effective date of the recently adopted requirement that all excess approved emergency exits must meet all of the emergency exit requirements (with minor exceptions) contained in § 121.310 of the Federal Aviation Regulations.

On September 15, 1967, the FAA adopted Amendment 121–30, Crashworthiness and Passenger Evacuation Standards; Transport Category Airplanes (32 F.R. 13255), which included a new requirement with respect to approved emergency exits that are in excess of the number required for the passenger seating capacity of the airplane. This new provision requires all such exits in the passenger compartment to meet all of the applicable provisions of § 121.310 (marking, lighting, etc.) except that they must be readily accessible in lieu of the specific access requirements. The Air Transport Association of America has requested a 2-year extension of the effective date of this section. A number of special situations have been pointed out that will present retrofitting problems on certain airplanes being operated under the present requirements of Part 121. The FAA agrees that some of the required changes to these particular exit exits will require additional time for design and installation of equipment. However, it is also felt that these exits should be equipped as quickly as possible since they will contribute significantly to the safe evacuation of passengers. Therefore, the date for compliance with this section is extended only to February 1, 1968.

Since this amendment is an extension of the effective date of a new requirement and imposes no additional burden on any person, I find that notice and public procedure thereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, § 121.310(j) of the Federal Aviation Regulations is amended, effective October 24, 1967, by deleting the first word and by inserting in place thereof the words "After January 31, 1968, approved".

(Secs. 313(a), 601, 603, 604, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423, 1424)

Issued in Washington, D.C., on October 24, 1967.

D. D. THOMAS,
Acting Administrator.

[F.R. Doc. 67–12723; Filed, Oct. 27, 1967; 8:46 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965–_____)

Subpart K—Conditions of Participation; Extended Care Facilities

On May 14, 1966, there was published in the FEDERAL REGISTER (31 F.R. 7131) a notice of proposed rule making relating to the conditions of participation for extended care facilities under Title XVIII of the Social Security Act. Interested parties were given the opportunity to submit written comments within 30 days after publication of the notice.

Written comments were received and considered; certain changes were made in the proposed regulations pursuant to these comments.

Section 405.1110(a) was revised to provide that the authorization for special certification in the case of extended care facilities is to be limited to use in those areas where no other participating extended care facility or participating hospital is available.

Section 405.1124(d) has been revised to include the addition of a definition of a State-approved school of practical nursing. Language has also been added which provides for an educational equivalency to graduation from a State-approved school of practical nursing.

In § 405.1126 several changes were made, including a reorganization of the material. The changes include a number of revisions that reflect, more precisely, the role of the physician and his relationship to the different types of therapists. The qualifications of physical therapists and speech therapists and audiologists have been modified to include certain groups of these therapists that were not included in the proposed regulations. A new paragraph (c) (8) has been added that provides for the use of other therapists, such as corrective therapists, in a facility that has an organized rehabilitation service.

Section 405.1127 has been revised to indicate more clearly that one of the sources that a facility may use for obtaining necessary drugs can by institutional pharmacists. A new paragraph (a) (5) has been added which relates to patient care policies.

Section 405.1134 has been revised to clarify the degree to which compliance with Hill-Burton regulations governing construction should be taken into account when determining whether a facility is in compliance with this section.

Section 405.1137 has been revised and reorganized. The language in the general section has been revised to bring it into conformity with the language contained in the regulation on the conditions of participation for hospitals.

Other changes of a clarifying and editorial nature have also been made.

Chapter III, Title 20 is amended by adding thereto Subpart K of Part 405, to read as set forth below. The addition of Subpart K of Part 405, Title 20, shall be effective upon publication in the FEDERAL REGISTER.

Dated: October 4, 1967.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: October 23, 1967.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

Subpart K—Conditions of Participation; Extended Care Facilities

AUTHORITY: The provisions of this Subpart K issued under secs. 1102, 1861(j), 1864, and 1871, 49 Stat. 647, as amended, 79 Stat. 317, 79 Stat. 326, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

§ 405.1101 General.

(a) In order to participate as an extended care facility in the health insurance program for the aged, an institution must be an "extended care facility" within the meaning of section 1861 (j) of the Social Security Act. This section of the law states a number of specific requirements which must be met by participating extended care facilities and authorizes the Secretary of Health, Education, and Welfare to prescribe other requirements considered necessary in the interest of health and safety of beneficiaries.

SEC. 1861. For purposes of this title—

* * * * *

(j) The term "extended care facility" means (except for purposes of subsection (a) (2)) an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (l)) with one or more hospitals having agreements in effect under section 1866 and which—

(1) is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) has policies, which are developed with the advice of (and with provision of review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides;

(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

(4) (A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician available to furnish necessary medical care in case of emergency;

(5) maintains clinical records on all patients;

(6) provides 24-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

(8) has in effect a utilization review plan which meets the requirements of subsection (k);

(9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

(10) meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary (subject to the second sentence of section 1863);

except that such term shall not (other than for purposes of subsection (a) (2)) include any institution which is primarily for the care and treatment of mental diseases or tuberculosis. For purposes of subsection (a) (2), such term includes any institution which meets the requirements of paragraph (1) of this subsection. The term "extended care facility" also includes an institution described in paragraph (1) of subsection (y), to the extent and subject to the limitations provided in such subsection.

(b) The requirements included in the statute and the additional health and safety requirements prescribed by the Secretary are set forth in the Conditions of Participation for Extended Care Facilities. An institution which meets all of the specific statutory requirements and which is found to be in substantial compliance with the additional conditions prescribed by the Secretary may, if it so desires, agree to become a participating extended care facility.

(c) The Secretary may, at the request of a State, approve higher health and safety requirements for that State. Also, where a State or political subdivision imposes higher requirements on institutions as a condition for the purchase of services under a State plan approved under Title I, XVI, or XIX of the Social Security Act, the Secretary is required to impose like requirements as a condition to the payment for services in such institutions in that State or subdivision.

(d) (1) The extended care benefit provided by the health insurance program for the aged is intended to be a benefit for those persons who, though they no longer require the level of intensive care ordinarily furnished in a general hospital, continue to need for medical reasons a level of care entailing medically supervised skilled nursing and related services on a continuing basis in an institutional setting. The extended care benefit covers not only postacute hospitalization where the individual is convalescing or being rehabilitated but also those types of cases where the patient may continue to be severely ill and indeed have little or no prospect of recovery. (The physician's certification required by section 1814(a) (2) (D) of the Social Security Act is, in part, that the extended care facility services are required because the patient needs "skilled nursing care on a continuing basis" for any of the

conditions for which he had just been previously hospitalized. Thus, a terminal cancer patient who may receive only palliative treatment but whose condition requires skilled nursing services available at all times would qualify for extended care benefits.) The underlying program purpose of the extended care benefit is to encourage the most effective and economical utilization of available medical care resources and facilities. Since it will be necessary for many aged patients who are hospitalized for intensive treatment of an acute phase of illness to undergo a period of medically supervised convalescence or care in a facility which is staffed and equipped to provide skilled nursing and other restorative services, the extended care benefit was provided to enable physicians to transfer patients (when the physician determines the transfer is medically appropriate), to such facilities rather than allowing patients to continue unnecessarily to occupy high-cost hospital beds.

(2) Accordingly, an extended care facility, whether it is a distinct part of an institution or a separate institution, is a facility which provides a level of care distinguishable from the level of intensive care ordinarily furnished by a general hospital. This level of care is reflected in the conditions of participation. While the conditions call for a wide range of specialized medical services and the employment by the facility in adequate numbers of a variety of paramedical and skilled nursing personnel, the emphasis is on the provision of skilled nursing and related care rather than the type of care and treatment required in the acute phase of an illness. Similarly, although the legislative language concerning rehabilitation services is the same with respect to hospitals and extended care facilities, the general concept of an extended care facility is that of an intermediate institution which provides post-hospital, subacute services. Hence, a rehabilitation hospital would be equipped and staffed to diagnose and evaluate the patient's disability and to initiate a rehabilitation regime. A rehabilitation extended care facility, on the other hand, would be staffed and equipped to continue and modify such a regime during the patient's convalescence.

(3) Thus, neither the title used by an institution, nor the statute under which it is licensed, necessarily identifies its function as being that of either a hospital or an extended care facility in the context of title XVIII. Its primary purpose and the way it carries out its program of services must be evaluated and determined. In the final analysis, the hospital is designed to initiate care, including diagnosis and treatment. The extended care facility is designed to continue care, with appropriate modifications as the patient's condition changes.

(e) Attention is invited to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; P.L. 88-352) which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance (sec. 601), and to the implementing regulation issued by the Secretary of Health, Education, and Welfare with the approval of the President (Part 80 of this title).

§ 405.1102 Conditions of participation; general.

For an institution to be eligible for participation in the program, it must meet the statutory requirements of section 1861(j) and there must be a finding of substantial compliance on the part of the institution with all the other conditions. These conditions which include both the statutory requirements and the additional health and safety requirements prescribed by the Secretary are set forth in §§ 405.1120 through 405.1137. They are requirements relating to the quality of care and the adequacy of the services and facilities which the institution provides. Variations in the type and size of the institutions and the nature and scope of services offered will be reflected in differences in the details of organization, staffing, and facilities. However, the test is whether there is substantial compliance with the prescribed conditions of participation.

§ 405.1103 Standards; general.

As a basis for a determination as to whether or not there is substantial compliance with the prescribed conditions in the case of any particular extended care facility, a series of standards, almost all interpreted by explanatory factors, are listed under each condition. These standards represent a broad range and variety of activities which such facilities may undertake or be pursuing in order to carry out the functions embodied in the conditions. Reference to these standards will enable the State agency surveying a facility to document the activities of the institution, to establish the nature and extent of its deficiencies, if any, with respect to any particular function, and to assess the facility's need for improvement in relation to the prescribed conditions. In substance, the application of the standards, together with the explanatory factors, will indicate the extent and degree to which an extended care facility is complying with each condition.

§ 405.1104 Certification by State agency.

(a) The Health Insurance for the Aged Act provides that the services of State agencies, operating under agreements with the Secretary, will be used by the Secretary in determining whether institutions meet the conditions of participation. Pursuant to these agreements, State agencies will certify to the Secretary, extended care facilities which, are found to be in substantial compliance with the conditions. Such certifications shall include findings as to whether each of the conditions is substantially met. The Seceretary, on the basis of such certification from the State agency, will determine whether or not an institution is an extended care facility eligible to participate in the health insurance program as a provider of services.

(b) The decisions of the State agency represent recommendations to the Secretary. Notice of determination of eligibility or noneligibility made by the Secretary on the basis of a State agency decision will be sent to the institution concerned by the Social Security Administration after such review and professional consultation with the Public Health Service as may be required. If it is determined that the institution does not comply with the conditions of participation, the institution has a right to appeal from such determination and request a hearing. For procedures relating to hearings and judicial review, see Subpart O of this Part 405.

§ 405.1105 Principles for the evaluation of extended care facilities to determine whether they meet the conditions of participation.

Extended care facilities will be considered in substantial compliance with the conditions of participation upon acceptance by the Secretary of findings, adequately documented and certified to by the State agency, showing that:

(a) The facility meets the specific statutory requirements of section 1861(j) and is found to be operating in accordance with all other conditions of participation with no significant deficiencies, or

(b) The facility meets the specific statutory requirements of section 1861(j) but is found to have deficiencies with respect to one or more other conditions of participation which:

(1) It is making reasonable plans and efforts to correct, and

(2) Notwithstanding the deficiencies, is rendering adequate care and is without hazard to the health and safety of individuals being served, taking into account special procedures or precautionary measures which have been or are being instituted.

§ 405.1106 Time limitations on certifications of substantial compliance.

(a) All initial certifications by the State agency to the effect that an extended care facility is in substantial compliance with the conditions of participation will be for a period of 1 year, beginning with January 1, 1967, or if later, with the date on which the facility is first found to be in substantial compliance with the conditions. State agencies may visit or resurvey institutions where necessary to ascertain continued compliance or to accommodate to periodic or cyclical survey programs. A State finding and certification to the Secretary that an institution is no longer in compliance may occur within a 1-year or subsequent period of certification and will thereby terminate the State certification as to compliance.

(b) If an extended care facility is certified by the State agency as in substantial compliance under the provisions of § 405.1105(b), the following information will be incorporated into the finding and into the notice of eligibility to the facility:

(1) A statement of the deficiencies which were found, and

(2) A description of progress which has been made and further action which is being taken to remove the deficiencies, and

(3) A scheduled time for a resurvey of the institution to be conducted not later than the ninth month (or earlier, depending on the nature of the deficiencies) of the period of certification.

§ 405.1107 Denial of certification.

(a) The State agency will certify that an institution is not in compliance with the conditions of participation or, where a determination of eligibility has been made, that an institution is no longer in compliance where:

(1) The institution is not in compliance with one or more of the statutory requirements of section 1861(j), or

(2) The institution has deficiencies of such character as to seriously limit the capacity of the institution to render adequate care or to place health and safety of individuals in jeopardy, and consultation to the institution has demonstrated that there is no early prospect of such significant improvement as to establish substantial compliance as of a later beginning date, or

(3) After a previous period or part thereof for which the institution was certified under circumstances outlined in § 405.1105(b), there is a lack of progress toward a removal of deficiencies which the State agency finds are adverse to the health and safety of individuals being served.

(b) If, on the basis of a State agency certification, it is determined by the Secretary that the institution does not substantially meet, or no longer substantially meets, the conditions of participation, an agreement for participation may not be accepted for filing, or if filed, may be terminated. The institution may request that the determination be reviewed.

§ 405.1108 Criteria for determining substantial compliance.

Findings made by a State agency as to whether an extended care facility is in substantial compliance with the conditions of participation require a thorough evaluation of the degree to which operation of a facility demonstrates adequate performance of the functions which are embodied in the conditions. The State evaluation will take into consideration:

(a) The degree to which each standard, as well as the total set of standards relating to a condition of participation, is met;

(b) When there is a deficiency in meeting a standard, whether the deficiency is one concerning the statutory requirements which must be met by all extended care facilities (sec. 1861(j));

(c) Whether the deficiency creates a hazard to health and safety; and

(d) Whether the facility is making reasonable plans and efforts to correct the deficiency within a reasonable period.

§ 405.1109 Documentation of findings.

The findings of the State agency with respect to each of the conditions of participation should be adequately documented. Where the State agency certification to the Secretary is that an institution is not in compliance with the conditions of participation, such documentation should include a report of all consultation which has been undertaken in an effort to assist the institution to comply with the conditions, a report of the institution's responses with respect to the consultation, and the State agency's assessment of the prospects for such improvements as to enable the institution to achieve substantial compliance with the conditions.

§ 405.1110 Authorization for special certification.

(a) Where, because of the absence of any participating extended care facility or hospital in an area, the denial of eligibility of an institution to participate in the program would result in beneficiaries not having access to needed services, an institution may, upon recommendation by the State agency, be approved by the Secretary as an extended care facility. Such approval will be granted only where there are no deficiencies of such character and seriousness as to place health and safety of individuals in jeopardy. An institution receiving this special approval shall furnish information showing the extent to which it is making the best use of its resources to improve its quality of care. Resurveys of such institutions will be made at least semiannually.

(b) Each case will have to be decided on its individual merits; and while the degree and extent of compliance will vary, the institution must, as a minimum, meet all of the statutory conditions in section 1861(j)(1)–(9), in addition to meeting such other requirements as the Secretary finds necessary under section 1861(j)(10).

§ 405.1120 Condition of participation—compliance with State and local laws.

The extended care facility is in conformity with all applicable Federal, State, and local laws, regulations and similar requirements.

(a) *Standard; licensing of institution.* In any State in which State or applicable local law provides for the licensing of extended care facilities, the institution (1) is licensed pursuant to such law, or (2) is approved by the agency of the State or locality responsible for licensing such institutions, as meeting the standards established for such licensing.

(b) *Standard; licensing of staff.* Staff of the extended care facility is currently licensed or registered in accordance with applicable laws.

(c) *Standard; conformity with laws.* The extended care facility is in conformity with laws relating to fire and safety, communicable and reportable diseases, and other relevant matters.

§ 405.1121 Condition of participation—administrative management.

The extended care facility has an effective governing body legally responsible for the conduct of the facility, which designates an administrator and establishes administrative policies. However, if the extended care facility does not have an organized governing body, the persons legally responsible for the conduct of the extended care facility carry out or have carried out the functions herein pertaining to the governing body.

(a) *Standard; governing body.* There is a governing body which assumes full legal responsibility for the overall conduct of the facility. The factors explaining the standard are as follows:

(1) The ownership of the facility is fully disclosed to the State agency. In the case of corporations, the corporate officers are made known.

(2) The governing body is responsible for compliance with the applicable laws and regulations of legally authorized agencies.

(b) *Standard; full-time administrator.* The governing body appoints a full-time administrator who is qualified by training and experience and delegates to him the internal operation of the facility in accordance with established policies. The factors explaining the standard are as follows:

(1) The administrator is at least 21 years old, capable of making mature judgments, and has no physical or mental disabilities or personality disturbances which interfere with carrying out his responsibilities.

(2) It is desirable for the administrator to have a minimum of a high school education, to have completed courses in administration or management and to have had at least 1 year of work experience including some administrative experience in an extended care facility or related health program.

(3) The administrator's responsibilities for procurement and direction of competent personnel are clearly defined.

(4) An individual competent and authorized to act in the absence of the administrator is designated.

(5) The administrator may be a member of the governing body.

(c) *Standard; personnel policies.* There are written personnel policies, practices, and procedures that adequately support sound patient care. The factors explaining the standard are as follows:

(1) Current employee records are maintained and include a résumé of each employee's training and experience.

(2) Files contain evidence of adequate health supervision such as results of preemployment and periodic physical examination, including chest X-rays, and records of all illnesses and accidents occurring on duty.

(3) Work assignments are consistent with qualifications.

(d) *Standard; notification of changes in patient status.* There are appropriate written policies and procedures relating to notification of responsible persons in the event of significant change in patient status, patient charges, billings, and other related administrative matters. The factors explaining the standard are as follows:

(1) Patients are not transferred or discharged without prior notification of next of kin or sponsor.

(2) Information describing the care and services provided by the facility is accurate and not misleading.

§ 405.1122 Condition of participation—patient care policies.

There are policies to govern the skilled nursing care and related medical or other services provided, which are developed with the advice of professional personnel, including one or more physicians and one or more registered professional nurses. A physician, a registered professional nurse, or a medical staff is responsible for the execution of these policies.

(a) *Standard; policies regarding nursing and medical care.* (1) The extended care facility has written policies which are developed with the advice of (and with provision for review of such policy from time to time by) a group of professional personnel, including at least one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides. Policies reflect awareness of and provision for meeting the total needs of patients. These are reviewed at least annually and cover at least the following:

(i) Admission, transfer, and discharge policies including categories of patients accepted and not accepted by extended care facility.

(ii) Physician services.

(iii) Nursing services.

(iv) Dietary services.

(v) Restorative services.

(vi) Pharmaceutical services.

(vii) Diagnostic services.

(viii) Care of patients in an emergency, during a communicable disease episode, and when critically ill or mentally disturbed.

(ix) Dental services.

(x) Social services.

(xi) Patient activities.

(xii) Clinical records.

(xiii) Transfer agreement.

(xiv) Utilization review.

(2) The factors explaining the standard are as follows:

(i) It is desirable that the group of professional personnel responsible for patient care policies includes health personnel such as social workers, dietitians, pharmacists, speech pathologists and audiologists, physical and occupational therapists, and mental health personnel. Pharmacy policies and procedures are preferably developed with the advice of a subgroup of physicians and pharmacists, serving as a pharmacy and therapeutics committee.

(ii) Some members of this group are neither owners nor employees of the facility.

(iii) The group meets at regularly scheduled intervals and minutes of each meeting are recorded.

(iv) The group may serve one or more facilities.

(b) *Standard; responsibilities; execution of patient care policies.* The extended care facility has a physician, a registered professional nurse, or a medical staff responsible for the execution of patient care policies established by the professional group referred to in paragraph (a)(1) of this section. The factors explaining the standard are as follows:

(1) If the organized medical staff is responsible, an individual physician is designated to maintain compliance with overall patient care policies.

(2) If a registered professional nurse is responsible, the facility makes available an advisory physician from whom she receives medical guidance.

§ 405.1123 Condition of participation—physician services.

Patients in need of skilled nursing care are admitted only upon the recommendation of a physician; their health care continues under the supervision of a physician; and the facility has a physician available to furnish necessary medical care in case of emergency.

(a) *Standard; medical findings and physicians' orders.* There is made available to the facility, prior to or at the time of admission, patient information which includes current medical findings, diagnoses, rehabilitation potential, a summary of the course of treatment followed in the hospital, and orders from a physician for the immedate care of the patient. The factors explaining the standard are as follows:

(1) If the above information is not available in the facility upon admission of the patient, it is obtained by the facility within 48 hours after admission.

(2) If medical orders for the immediate care of a patient are unobtainable at the time of admission, the physician with responsibility for emergency care gives temporary orders.

(3) A current hospital discharge summary containing the above information is acceptable.

(b) *Standard; supervision by physician.* The facility has a requirement that the health care of every patient is under the supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, restorative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge. The factors explaining the standard are as follows:

(1) The medical evaluation of the patient is based on a physical examination done within 48 hours of admission unless such examination was performed within 5 days prior to admission.

(2) The charge nurse and other appropriate personnel involved in the care of the patient assist in planning his total program of care.

(3) The patient's total program of care is reviewed and revised at intervals appropriate to his needs. Attention is given to special needs of patients such as foot, sight, speech, and hearing problems.

(4) Orders concerning medications and treatments are in effect for the specified number of days indicated by the physician but in no case exceed a period of 30 days unless reordered in writing by the physician.

(5) Telephone orders are accepted only when necessary and only by licensed nurses. Telephone orders are written into the appropriate clinical record by the nurse receiving them and are countersigned by the physician within 48 hours.

(6) Patients are seen by a physician at least once every 30 days. There is evidence in the clinical record of the physician's visits to the patient at appropriate intervals.

(7) There is evidence in the clinical record that the physician has made arrangements for the medical care of the patient in the physician's absence.

(8) To the extent feasible, each patient or his sponsor designates a personal physician.

(c) *Standard; availability of physicians for emergency care.* The extended care facility provides for having one or more physicians available to furnish necessary medical care in case of emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each is on call is posted in each nursing station. There are established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

§ 405.1124 Condition of participation—nursing services.

The extended care facility provides 24-hour nursing service which is sufficient to meet the nursing needs of all patients. There is at least one registered professional nurse employed full time and responsible for the total nursing service. There is a registered professional nurse or licensed practical nurse who is a graduate of a State approved school of practical nursing in charge of nursing activities during each tour of duty. The terms "licensed practical nurse(s)" and "practical nursing" as used in this section are synonymous with "licensed vocational nurse(s)" and "vocational nursing."

(a) *Standard; full-time nurse.* There is at least one registered professional nurse employed full time. If there is only one registered professional nurse, she serves as director of the nursing service, works full time during the day, and devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, she has a professional nurse assistant so that there is the equivalent of a full-time director of nursing service. The director of nursing service is trained or experienced in areas such as nursing service administration, rehabilitation nursing, psychiatric or geriatric nursing.

(b) *Standard; director of nursing service.* The director of the nursing service is responsible for:

(1) Developing and/or maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel;

(2) Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection, and recommending termination of employment when necessary;

(3) Assigning and supervising all levels of nursing personnel;

(4) Participating in planning and budgeting for nursing care;

(5) Participating in the development and implementation of patient care policies and bringing patient care problems requiring changes in policy to the attention of the professional policy advisory groups;

(6) Coordinating nursing services with other patient care services such as physician, physical therapy, occupational therapy, and dietary;

(7) Planning and conducting orientation programs for new nursing personnel, and continuing inservice education for all nursing personnel;

(8) Participating in the selection of prospective patients in terms of nursing services they need and nursing competencies available;

(9) Assuring that a nursing care plan is established for each patient and that his plan is reviewed and modified as necessary.

(c) *Standard; supervising nurse.* Nursing care is provided by or under the supervision of a full-time registered professional nurse currently licensed to practice in the State. The factors explaining the standard are as follows:

(1) The supervising nurse is trained or experienced in areas such as nursing administration and supervision, rehabilitation nursing, psychiatric or geriatric nursing.

(2) The supervising nurse makes daily rounds to all nursing units performing such functions as visiting each patient, reviewing clinical records, medication cards, patient care plans and staff assignments, and to the greatest degree possible accompanying physicians when visiting patients.

(d) *Standard; charge nurse.* There is at least one registered professional nurse or qualified licensed practical nurse who is a graduate of a State-approved school of practical nursing on duty at all times and in charge of the nursing activities during each tour of duty. The factors explaining the standard are as follows:

(1) A State-approved school of practical nursing is one whose standards of education meet those set by the appropriate State nurse licensing authority.

(2) Some State laws grant practical nurse licensure (nonwaivered) to certain individuals who have an educational background considered to be equivalent to graduation from a State-approved school of practical nursing. Such licensure determination is made by the appropriate State nurse licensing authority on the basis of evaluation of the individual's educational achievements, as well as on successful completion of the appropriate State licensing examination. Licensure under such conditions may be accepted as meeting the requirement of graduation from a State-approved school of practical nursing.

(3) It is desirable that the nurse in charge of each tour of duty be trained or experienced in areas such as nursing administration and supervision, rehabilitation nursing, psychiatric or geriatric nursing.

(4) The charge nurse has the ability to recognize significant changes in the condition of patients and to take necessary action.

(5) The charge nurse is responsible for the total nursing care of patients during her tour of duty.

(e) *Standard; 24-hour nursing service.* There is 24-hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. The factors explaining the standard are as follows:

(1) Nursing personnel include registered professional nurses, licensed practical nurses, aides and orderlies.

(2) The amount of nursing time available for patient care is exclusive of nonnursing duties.

(3) Sufficient nursing time is available to assure that each patient:

(i) Receives treatments, medications and diet as prescribed;

(ii) Receives proper care to prevent decubiti and is kept comfortable, clean, and well-groomed;

(iii) Is protected from accident and injury by the adoption of indicated safety measures;

(iv) Is treated with kindness and respect.

(4) Licensed practical nurses, nurses' aides, and orderlies are assigned duties consistent with their training and experience.

(f) *Standard; restorative nursing care.* There is an active program of restorative nursing care directed toward assisting each patient to achieve and maintain his highest level of self care and independence. The factors explaining the standard are as follows:

(1) Restorative nursing care initiated in the hospital is continued immediately upon admission to the extended care facility.

(2) Nursing personnel are taught restorative nursing measures and practice them in their daily care of patients. These measures include:

(i) Maintaining good body alignment and proper positioning of bedfast patients;

(ii) Encouraging and assisting bedfast patients to change positions at least every 2 hours day and night to stimulate circulation, and prevent decubiti and deformities;

(iii) Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physicians' orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

(iv) Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

(v) Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(3) Consultation and instruction in restorative nursing available from State or local agencies are utilized.

(g) *Standard; dietary supervision.* Nursing personnel are aware of the dietary needs and food and fluid intake of patients. The factors explaining the standard are as follows:

(1) Nursing personnel observe that patients are served diets as prescribed.

(2) Patients needing help in eating are assisted promptly upon receipt of meals.

(3) Adaptive self-help devices are provided to contribute to the patient's independence in eating.

(4) Food and fluid intake of patients is observed and deviations from normal are reported to the charge nurse. Persistent unresolved problems are reported to the physician.

(h) *Standard; nursing care plan.* There is a written nursing care plan for each patient based on the nature of illness, treatment prescribed, long- and short-term goals and other pertinent information. The factors explaining the standard are as follows:

(1) The nursing care plan is a personalized, daily plan for individual patients. It indicates what nursing care is needed, how it can best be accomplished for each patient, how the patient likes things done, what methods and approaches are most successful, and what modifications are necessary to insure best results.

(2) Nursing care plans are available for use by all nursing personnel.

(3) Nursing care plans are reviewed and revised as needed.

(4) Relevant nursing information from the nursing care plan is included with other medical information when patients are transferred.

(i) *Standard; inservice educational program.* There is a continuing inservice educational program in effect for all nursing personnel in addition to a thorough job orientation for new personnel. Skill training for nonprofessional nursing personnel begins during the orientation period. The factors explaining the standard are as follows:

(1) Planned inservice programs are conducted at regular intervals for all nursing personnel.

(2) All patient care personnel are instructed and supervised in the care of emotionally disturbed and confused patients, and are helped to understand the social aspects of patient care.

(3) Skill training includes demonstration, practice, and supervision of simple nursing procedures applicable in the individual facility. It also includes simple restorative nursing procedures.

(4) Orientation of new personnel includes a review of the procedures to be followed in emergencies.

(5) Opportunities are provided for nursing personnel to attend training courses in restorative nursing and other educational programs related to the care of long-term patients.

§ 405.1125 Condition of participation—dietary services.

The dietary service is directed by a qualified individual and meets the daily dietary needs of patients. An extended care facility which has a contract with an outside food management company may be found to meet this condition of participation provided the company has a dietitian who serves, as required by the scope and complexity of the service, on a full-time, part-time or consultant basis to the extended care facility, and provided the company maintains standards as listed herein and provides for continuing liaison with the medical and nursing staff of the extended care facility for recommendations on dietetic policies affecting patient care.

(a) *Standard; dietary supervision.* A person designated by the administrator is responsible for the total food service of the facility. If this person is not a professional dietitian, regularly scheduled consultation from a professional dietitian or other person with suitable training is obtained. The factors explaining the standard are as follows:

(1) A professional dietitian meets the American Dietetic Association's qualification standards.

(2) Other persons with suitable training are graduates of baccalaureate degree programs with major studies in food and nutrition.

(3) The person in charge of the dietary service participates in regular conferences with the administrator and other supervisors of patient services.

(4) This person makes recommendations concerning the quantity, quality and variety of food purchased.

(5) This person is responsible for the orientation, training and supervision of food service employees, and participates in their selection and in the formulation of pertinent personnel policies.

(6) Consultation obtained from self-employed dietitians or dietitians employed in voluntary or official agencies is acceptable if provided on a frequent and regularly scheduled basis.

(b) *Standard; adequacy of diet staff.* A sufficient number of food service personnel are employed and their working hours are scheduled to meet the dietary needs of the patients. The factors explaining the standard are as follows:

(1) There are food service employees on duty over a period of 12 or more hours.

(2) Food service employees are trained to perform assigned duties and participate in selected in-service education programs.

(3) In the event food service employees are assigned duties outside the dietary department, these duties do not interfere with the sanitation, safety, or time required for dietary work assignments.

(4) Work assignments and duty schedules are posted.

(c) *Standard; hygiene of diet staff.* Food service personnel are in good health and practice hygienic food handling techniques. The factors explaining the standard are as follows:

(1) Food service personnel wear clean washable garments, hairnets, or clean caps, and keep their hands and fingernails clean at all times.

(2) Routine health examinations at least meet local, State, or Federal codes for food service personnel. Where food handlers' permits are required, they are current.

(3) Personnel having symptoms of communicable diseases or open infected wounds are not permitted to work.

(d) *Standard; adequacy of diet.* The food and nutritional needs of patients are met in accordance with physicians' orders, and, to the extent medically possible, meet the dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity. A daily food guide for adults may be based on the following allowances:

(1) Milk: Two or more cups.

(2) Meat group: Two or more servings of beef, veal, pork, lamb, poultry, fish, eggs. Occasionally dry beans, nuts, or dry peas may be served as alternates.

(3) Vegetable and fruit group: Four or more servings of a citrus fruit or other fruit and vegetable important for Vitamin C; a dark green or deep yellow vegetable for Vitamin A, at least every other day; other vegetables and fruits including potatoes.

(4) Bread and cereal group: Four or more servings of whole grain, enriched or restored.

(5) Other foods to round out meals and snacks, to satisfy individual appetites and provide additional calories.

(e) *Standard; therapeutic diets.* Therapeutic diets are prepared and served as prescribed by the attending physician. The factors explaining the standard are as follows:

(1) Therapeutic diet orders are planned, prepared, and served with supervision or consultation from a qualified dietitian.

(2) A current diet manual recommended by the State licensure agency is readily available to food service personnel and supervisors of nursing service.

(3) Persons responsible for therapeutic diets have sufficient knowledge of food values to make appropriate substitutions when necessary.

(f) *Standard; quantity of food.* At least three meals or their equivalent are served daily, at regular times, with not more than a 14-hour span between a substantial evening meal and breakfast. Between-meal or bedtime snacks of nourishing quality are offered. If the "four or five meal a day" plan is in effect, meals and snacks provide nutritional value equivalent to the daily food guide previously described.

(g) *Standard; planning of menus.* Menus are planned in advance and food sufficient to meet the nutrition needs of patients is prepared as planned for each meal. When changes in the menu are necessary, substitutions provide equal nutritive value. The factors explaining the standard are as follows:

(1) Menus are written at least 1 week in advance. The current week's menu is in one or more accessible places in the dietary department for easy use by workers purchasing, preparing, and serving foods.

(2) Menus provide a sufficient variety of foods served in adequate amounts at each meal. Menus are different for the same days of each week and are adjusted for seasonal changes.

(3) Records of menus as served are filed and maintained for 30 days.

(4) Supplies of staple foods for a minimum of a 1-week period and of perishable foods for a minimum of a 2-day period are maintained on the premises.

(5) Records of food purchased for preparation are on file.

(h) *Standard; preparation of food.* Foods are prepared by methods that conserve nutritive value, flavor, and appearance, and are attractively served at the proper temperatures and in a form to meet individual needs. The factors explaining the standard are as follows:

(1) A file of tested recipes, adjusted to appropriate yield, is maintained.

(2) Food is cut, chopped or ground to meet individual needs.

(3) If a patient refuses foods served, substitutes are offered.

(4) Effective equipment is provided and procedures established to maintain food at proper temperature during serving.

(5) Table service is provided for all who can and will eat at a table including wheelchair patients.

(6) Trays provided bedfast patients rest on firm supports such as overbed tables. Sturdy tray stands of proper height are provided patients able to be out of bed.

(i) *Standard; maintenance of sanitary conditions.* Sanitary conditions are maintained in the storage, preparation and distribution of food. The factors explaining the standard are as follows:

(1) Effective procedures for cleaning all equipment and work areas are followed consistently.

(2) Dishwashing procedures and techniques are well developed, understood and carried out in compliance with the State and local health codes.

(3) Written reports of inspections by State or local health authorities are on file at the facility with notation made of action taken by the facility to comply with any recommendations.

(4) Waste which is not disposed of by mechanical means is kept in leakproof nonabsorbent containers with close-fitting covers and is disposed of daily in a manner that will prevent transmission of disease, a nuisance, a breeding place for flies, or a feeding place for rodents. Containers are thoroughly cleaned inside and out each time emptied.

(5) Dry or staple food items are stored off the floor in a ventilated room not subject to sewage or waste water backflow, or contamination by condensation, leakage, rodents, or vermin.

(6) Handwashing facilities including hot and cold water, soap, and individual towels, preferably paper towels, are provided in kitchen areas.

§ 405.1126 Condition of participation—restorative services.

Restorative services are provided upon written order of the physician.

(a) *Standard; medical direction.* Restorative services are provided only upon written order by the physician who indicates anticipated goals and is responsible for general medical direction of such services as part of the total care of the patient. The physician prescribes specific modalities to be used and frequency of physical and occupational therapy services.

(b) *Standard; maintenance of patient's functions.* At a minimum, restorative nursing care designed to maintain function or improve the patient's ability to carry out the activities of daily living is provided by the extended care facility. (See § 405.1124(f).)

(c) *Standard; therapy services.* If restorative services beyond restorative nursing care are offered, whether directly or through cooperative arrangements with appropriate agencies such as hospitals, rehabilitation centers, State or local health department, or independently practicing therapists, these services are given or supervised by therapists meeting the qualification set out below. When supervision is less than full time it is provided on a planned basis and is frequent enough, in relation to the staff therapist's training and experience to assure sufficient review of individual treatment plans and progress. The factors explaining the standard are as follows:

(1) Physical therapy is given or supervised by a therapist who meets one of the following requirements:

(i) He has graduated from a physical therapy curriculum approved by—

(*a*) The American Physical Therapy Association; or

(*b*) The Council on Medical Education and Hospitals of the American Medical Association; or

(*c*) The Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association; or

(ii) Prior to January 1, 1966

(*a*) Has been admitted to membership by the American Physical Therapy Association; or

(*b*) Has been admitted to registration by the American Registry of Physical Therapists; or

(*c*) Has graduated from a physical therapy curriculum in a four year college or university approved by a State department of education, is licensed or registered as a physical therapist, and where appropriate, has passed a State examination for licensure as a physical therapist; or

(iii) If trained outside the United States

(*a*) Has graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy; and

(*b*) Is a member of a member organization of the World Confederation for Physical Therapy; and

(*c*) Has completed one year's experience under the supervision of an active member of the American Physical Therapy Association; and

(*d*) Has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

(2) Physical therapy includes such services as:

(i) Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

(ii) Treating patients to relieve pain, develop or restore function, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

(3) Speech therapy is given or supervised by a therapist who meets one of the following requirements:

(i) Has been granted a Certificate of Clinical Competence in the appropriate area (Speech Pathology or Audiology) by the American Speech and Hearing Association; or

(ii) Meets the equivalent educational requirements and work experience necessary for such certificate; or

(iii) Has completed the academic and practicum requirements for certification and is in the process of accumulating the necessary supervised work experience required for certification; or

(iv) Until January 1, 1970, has a Basic Certificate or provisional basic certification and is in the process of acquiring 4 years of sponsored professional experience; or

(v) Had a Basic Certificate or sponsor privilege as of December 31, 1964, cannot complete 4 years of sponsored professional experience before January 1, 1970, but passes a special examination given by the American Speech and Hearing Association during 1969.

(4) Speech therapy is service in speech pathology or audiology, and may include:

(i) Cooperation in the evaluation of patients with speech, hearing, or language disorders;

(ii) Determination and recommendation of appropriate speech and hearing services;

(iii) Provision of necessary rehabilitative services for patients with speech, hearing, and language disabilities.

(5) Occupational therapy is given or supervised by a therapist who is registered by the American Occupational Therapy Association or is a graduate of a program approved by the Council on Medical Education of the American Medical Association in collaboration with the American Occupational Therapy Association and is in the process of accumulating supervised clinical experience required for registration.

(6) Occupational therapy includes duties such as:

(i) Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

(ii) Guiding the patient in his use of therapeutic creative and self-care activities for improving function.

(7) Other personnel providing restorative services are specially trained and work under professional supervision in accordance with accepted professional practices. For example, an occupational therapy assistant has successfully completed a training course approved by the American Occupational Therapy Association, is certified by that body as a certified occupational therapy assistant, and receives supervision from a qualified occupational therapist.

(8) In a facility with an organized rehabilitation service using a multidisciplinary team approach to all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine the goals and limits of the therapists' work, and prescribe modalities and frequency of therapy, persons with qualifications other than those described in subparagraphs (1), (3), and (5) of this paragraph could be assigned duties appropriate to their training and experience.

(9) Therapists collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(10) Therapists participate in the facility's in-service education programs.

(d) *Standard; ambulation and therapeutic equipment.* Commonly used ambulation and therapeutic equipment necessary for services offered is available for use in the facility. The factors explaining the standard are as follows:

(1) Recommended ambulation equipment includes such items as parallel bars, hand rails, wheel chairs, walkers, walkerettes, crutches, and canes.

(2) The therapists advise the administrator concerning the purchase, rental, storage, and maintenance of equipment and supplies.

§ 405.1127 Condition of participation—pharmaceutical services.

Whether drugs are generally procured from community or institutional pharmacists or stocked by the facility, the extended care facility has methods and procedures for its pharmaceutical services that are in accord with accepted professional practices.

(a) *Standard; procedures for administration of pharmaceutical services.* The extended care facility provides appropriate methods and procedures for the obtaining, dispensing and administering of drugs and biologicals, developed with the advice of a staff pharmacist, a consultant pharmacist, or a pharmaceutical advisory committee which includes one or more licensed pharmacists. The factors explaining the standard are as follows:

(1) If the extended care facility has a pharmacy department, a licensed pharmacist is employed to administer the pharmacy department.

(2) If the facility does not have a pharmacy department, it has provision for promptly and conveniently obtaining prescribed drugs and biologicals from community or institutional pharmacists.

(3) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

(i) The consultant pharmacist is responsible for the control of all bulk drugs and maintains records of their receipt and disposition.

(ii) The consultant pharmacist dispenses drugs from the drug supply, properly labels them and makes them available to appropriate licensed nursing personnel. Wherever possible, the pharmacist in dispensing drugs works from the prescriber's original order or a direct copy.

(iii) Provision is made for emergency withdrawal of medications from the drug supply.

(4) An emergency medication kit approved by the facility's group of professional personnel is kept readily available.

(5) The extended care facility has written policies covering pharmaceutical services which are developed with the advice of a group of professional personnel and which are reviewed at least annually. Pharmacy policies and procedures are preferably developed with the advice of a subgroup of physicians and pharmacists serving as a pharmacy and therapeutics committee.

(b) *Standard; conformance with physicians' orders.* All medications administered to patients are ordered in writing by the patient's physician. Oral orders are given only to a licensed nurse, immediately reduced to writing, signed by the nurse and countersigned by the physician within 48 hours. Medications not specifically limited as to time or number of doses, when ordered, are automatically stopped in accordance with written policy approved by the physician or physicians responsible for advising the facility on its medical administrative policies. The factors explaining the standard are as follows:

(1) The charge nurse and the prescribing physician together review monthly each patient's medications.

(2) The patient's attending physician is notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted.

(3) Medications are released to patients on discharge only on the written authorization of the physician.

(c) *Standard; administration of medications.* All medications are administered by licensed medical or nursing personnel in accordance with the Medical and Nurse Practice Acts of each State. Each dose administered is properly recorded in the clinical record. The factors explaining the standard are as follows:

(1) The nursing station has readily available items necessary for the proper administration of medication.

(2) In administering medications, medication cards or other State approved systems are used and checked against the physician's orders.

(3) Medications prescribed for one patient are not administered to any other patient.

(4) Self-administration of medications by patients is not permitted except for emergency drugs on special order of the patient's physician or in a predischarge program under the supervision of a licensed nurse.

(5) Medication errors and drug reactions are immediately reported to the patient's physician and an entry thereof made in the patient's clinical record as well as on an incident report.

(6) Up-to-date medication reference texts and sources of information are provided, such as the American Hospital Formulary Service of the American Society of Hospital Pharmacists or other suitable references.

(d) *Standard; labeling and storing medications.* Patients' medications are properly labeled and stored in a locked cabinet at the nurses' station. The factors explaining the standard are as follows:

(1) The label of each patient's individual medication container clearly indicates the patient's full name, physician's name, prescription number, name and strength of drug, date of issue, expiration date of all time-dated drugs, and name and address, and telephone number of pharmacy issuing the drug. It is advisable that the manufacturer's name and the lot or control number of the medication also appear on the label.

(2) Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels are returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels are destroyed in accordance with State and Federal laws.

(3) The medications of each patient are kept and stored in their originally received containers and transferring between containers is forbidden.

(4) Separately locked, securely fastened boxes (or drawers) within the medicine cabinet are provided for storage of narcotics, barbiturates, amphetamines and other dangerous drugs subject to the Drug Abuse Control Amendments of 1965.

(5) Cabinets are well lighted and of sufficient size to permit storage without crowding.

(6) Medications requiring refrigeration are kept in a separate, locked box within a refrigerator at or near the nursing station.

(7) Poisons and medications for "external use only" are kept in a locked cabinet and separate from other medications.

(8) Medications no longer in use are disposed of or destroyed in accordance with Federal and State laws and regulations.

(9) Medications having an expiration date are removed from usage and properly disposed of after such date.

(e) *Standard; control of narcotics, etc.* The extended care facility complies with all Federal and State laws and regulations relating to the procurement, storage, dispensing, administration and disposal of narcotics, those drugs subject to the Drug Abuse Control Amendments of 1965, and other legend drugs. The factor explaining the standard is as follows: A narcotic record is maintained which lists on separate sheets for each type and strength of narcotic the following information: date, time administered, name of patient, dose, physician's name, signature of person administering dose, and balance.

§ 405.1128 Condition of participation—diagnostic services.

The extended care facility has provision for obtaining required clinical laboratory, X-ray and other diagnostic services.

(a) Standard; provisions for diagnostic services: The extended care facility has provision for promptly and conveniently obtaining required clinical laboratory, X-ray and other diagnostic services. Such services may be obtained from a physician's office, a laboratory which is part of a hospital approved for participation in the Health Insurance for the Aged Program or a laboratory which is approved to provide these services as an independent laboratory under the Supplementary Medical Insurance for the Aged program. If the facility provides its own diagnostic services, these meet the applicable conditions established for certification of hospitals that are contained in §§ 405.1028 and 405.1029.

(b) The factors explaining the standard are as follows:

(1) All diagnostic services are provided only on the request of a physician.

(2) The physician is notified promptly of the test results.

(3) Arrangements are made for the transportation of patients, if necessary to and from the source of service.

(4) Simple tests, such as those customarily done by nursing personnel for diabetic patients, may be done in the facility.

(5) All reports are included in the clinical record.

§ 405.1129 Condition of participation—dental services.

The extended care facility assists patients to obtain regular and emergency dental care. However, the services of dentists to individual patients are not included as a benefit in the basic hospital insurance program, and only certain oral surgery is included in the supplemental medical insurance program.

(a) Standard; provision for dental care: Patients are assisted to obtain regular and emergency dental care.

(b) The factors explaining the standard are as follows:

(1) An advisory dentist provides consultation, participates in in-service education, recommends policies concerning oral hygiene, and is available in case of emergency.

(2) The extended care facility, when necessary, arranges for the patient to be transported to the dentist's office.

(3) Nursing personnel assist the patient to carry out the dentist's recommendations.

§ 405.1130 Condition of participation—social services.

Services are provided to meet the medically related social needs of patients.

(a) *Standard; provision for medically related social needs.* The medically related social needs of the patient are identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge. The factors explaining the standard are as follows:

(1) As a part of the process of evaluating a patient's need for services in an extended care facility and whether the facility can offer appropriate care, emotional and social factors are considered in relation to medical and nursing requirements.

(2) As soon as possible after admission, there is evaluation, based on medical, nursing, and social factors, of the probable duration of the patient's need for care and a plan is formulated and recorded for providing such care.

(3) Where there are indications that financial help will be needed arrangements are made promptly for referral to an appropriate agency.

(4) Social and emotional factors related to the patient's illness, to his response to treatment, and to his adjustment to care in the facility are recognized and appropriate action is taken when necessary to obtain casework services to assist in resolving problems in these areas.

(5) Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements are used in making decisions regarding his discharge from the facility.

(b) *Standard; staff members responsible for social services.* There is a designated member of the staff of the facility who will take responsibility, when medically related social problems are recognized, for action necessary to solve them. The factors explaining the standard are as follows:

(1) There is a full-time or part-time social worker employed by the facility, or there is a person on the staff who is suited by training and/or experience in related fields to find community resources to deal with the social problems.

(2) The staff member responsible for this area of service has information promptly available on health and welfare resources in the community.

(3) If the facility does not have a qualified social worker on its staff, there is an effective arrangement with a public or private agency, which may include the local welfare department, to provide social service consultation.

(4) A qualified social worker is a graduate of a school of social work accredited by the Council on Social Work Education.

(c) *Standard; social services training of staff.* There is provision for orientation and in-service training of staff directed toward understanding emotional problems and social needs of sick and infirm aged persons, and recognition of social problems of patients and the means of taking appropriate action in relation to them. Either a qualified social worker on the staff, or one from outside the facility, participates in training programs, case conferences, and arrangements for staff orientation to community services and patient needs.

(d) *Standard; confidentiality of social data.* Pertinent social data, and information about personal and family problems related to the patient's illness and care, are made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There are appropriate policies and procedures for assuring the confidentiality of such information. The factors explaining the standard are as follows:

(1) The staff member responsible for social services participates in clinical staff conferences and/or confers with the attending physician prior to admission of the patient, at intervals during the patient's stay in the facility, and prior to discharge of the patient, and there is evidence in the record of such conferences.

(2) The staff member and nurses responsible for the patient's care confer frequently and there is evidence of effective working relationships between them.

(3) Records of pertinent social information, and of action taken to meet social needs, are maintained for each patient; signed social service summaries are entered promptly in the patient's clinical record for the benefit of all staff involved in the care of the patient.

§ 405.1131 Condition of participation—patient activities.

Activities suited to the needs and interests of patients are provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities.

(a) Standard; provision for patient activity: Provision is made for purposeful activities which are suited to the needs and interests of patients.

(b) The factors explaining the standard are as follows:

(1) An individual is designated as being in charge of patient activities. This individual has experience and/or training in directing group activity, or has available consultation from a qualified recreational therapist or group activity leader.

(2) The activity leader uses, to the fullest possible extent, community, social and recreational opportunities.

(3) Patients are encouraged, but not forced, to participate in such activities. Suitable activities are provided for patients unable to leave their room.

(4) Patients who are able and who wish to do so are assisted to attend religious services.

(5) Patient's requests to see their clergymen are honored and space is provided for privacy during visits.

(6) Visiting hours are flexible and posted to permit and encourage visiting by friends and relatives.

(7) The facility makes available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: Books and magazines, daily newspapers, games, stationery, radio and television, and the like.

§ 405.1132 Condition of participation—clinical records.

A clinical record is maintained for each patient admitted, in accordance with accepted professional principles.

(a) *Standard; maintenance of clinical record.* The extended care facility maintains a separate clinical record for each patient admitted with all entries kept current, dated, and signed. The record includes:

(1) Identification and summary sheet(s) including patient's name, social security number, marital status, age, sex, home address, and religion; names, addresses, and telephone numbers of referral agency (including hospital from which admitted), personal physician, dentist, and next of kin or other responsible person; admitting diagnosis; final diagnosis, condition on discharge, and disposition, and any other information needed to meet State requirements;

(2) Initial medical evaluation including medical history, physical examination, diagnosis, and estimation of restoration potential;

(3) Authentication of hospital diagnoses, in the form of a hospital summary discharge sheet, or a report from the physician who attended the patient in the hospital, or a transfer form used under a transfer agreement;

(4) Physician's orders, including all medications, treatments, diet, restorative and special medical procedures required for the safety and well-being of the patient;

(5) Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit;

(6) Nurse's notes containing observations made by the nursing personnel;

(7) Medication and treatment record including all medications, treatments, and special procedures performed for the safety and well-being of the patient;

(8) Laboratory and X-ray reports;

(9) Consultation reports;

(10) Dental reports;

(11) Social service notes;

(12) Patient care referral reports.

(b) *Standard; retention of records.* All clinical records of discharged patients are completed promptly and are filed and retained in accordance with State law or for 5 years in the absence of a State statute. The factors explaining the standard are as follows:

(1) The extended care facility has policies providing for the retention and safekeeping of patients' clinical records by the governing body for the required period of time in the event that the extended care facility discontinues operation.

(2) If the patient is transferred to another health care facility, a copy of the patient's clinical record or an abstract thereof accompanies the patient.

(c) *Standard; confidentiality of records.* All information contained in the clinical records is treated as confidential and is disclosed only to authorized persons.

(d) *Standard; staff responsibility for records.* If the extended care facility does not have a full or part-time medical record librarian, an employee of the facility is assigned the responsibility for assuring that records are maintained, completed and preserved. The designated individual is trained by, and receives, regular consultation from a person skilled in record maintenance and preservation.

§ 405.1133 Condition of participation—transfer agreement.

The extended care facility has in effect a transfer agreement (meeting the requirements of section 1861(l) of the Social Security Act) with one or more hospitals which have entered into agreements with the Secretary to participate in the program. (See paragraph (e) of this section where facility attempted to enter into a transfer agreement.)

(a) *Standard; patient transfer.* The transfer agreement provides reasonable assurance that transfer of patients will be effected between the hospital and the extended care facility whenever such transfer is medically appropriate as determined by the attending physician. The factors explaining the standard are as follows:

(1) The agreement is with a hospital close enough to the facility to make the transfer of patients feasible.

(2) The transfer agreement facilitates continuity of patient care and expedites appropriate care for the patient.

(3) The agreement may be made on a one-to-one basis or on a community wide basis. The latter arrangement could provide for a master agreement to be signed by each hospital and extended care facility.

(4) When the transfer agreement is on a community wide basis it reflects the mutual planning and agreement of hospitals, extended care facilities and other related agencies.

(5) The institutions provide to each other information about their resources sufficient to determine whether the care needed by a patient is available.

(6) Where the transfer agreement specifies restrictions with respect to the types of services available in the hospital or the facility and/or the types of patients or health conditions that will not be accepted by the hospital or the facility, or includes any other criteria relating to the transfer of patients (such as priorities for persons on waiting lists), such restrictions or criteria are the same as those applied by the hospital or facility to all other potential inpatients of the hospital or facility.

(7) When a transfer agreement has been in effect over a period of time, a sufficient number of patient transfers between the two institutions have occurred to indicate that the transfer agreement is effective.

(b) *Standard; interchanges of information.* The transfer agreement provides reasonable assurance that there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions. The factors explaining the standard are as follows:

(1) The agreement establishes responsibility for the prompt exchange of patient information to enable each institution to determine whether it can adequately care for the patient and to assure continuity of patient care.

(2) Medical information transferred includes current medical findings, diagnosis, rehabilitation potential, a brief summary of the course of treatment followed in the hospital or extended care facility, nursing and dietary information useful in the care of the patient, ambulation status, and pertinent administrative and social information.

(3) The agreement provides for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items.

(c) *Standard; execution of agreement.* The transfer agreement is in writing and is signed by individuals authorized to execute such an agreement on behalf of the institutions, or, in case the two institutions are under common control, there is a written policy or order signed by the person or body which controls them. The factors explaining the standard are as follows:

(1) When the hospital and extended care facility are not under common control, the terms of the transfer agreement are established jointly by both institutions.

(2) Each institution participating in the agreement maintains a copy of the agreement.

(d) *Standard; specification of responsibilities.* The transfer agreement specifies the responsibilities each institution assumes in the transfer of patients and information between the hospital and the extended care facility. The agreement establishes responsibility for notifying the other institution promptly of the impending transfer of a patient; arranging for appropriate and safe transportation; and arranging for the care of patients during transfer.

(e) *Standard; presumed agreement where necessary for provision of services.* An extended care facility which does not have a transfer agreement in effect but which is found by the State agency conducting the survey (or, in the case of a State in which there is no such agency, by the Secretary) to have attempted in good faith to enter into a transfer agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and medical and other information, shall be considered to have such an agreement in effect if and for so long as it is also found that to do so is in the public interest and essential to assuring extended care services for patients in the community eligible for benefits. The factors explaining the standard are as follows:

(1) If there is only one hospital in the community, the extended care facility has attempted in good faith to enter into a transfer agreement with that hospital.

(2) If there are several hospitals in the community, the extended care facility has exhausted all reasonable possibilities of entering into a transfer agreement with these hospitals.

(3) The extended care facility has copies of letters, records of conferences, and other evidence to support its claim that it has attempted in good faith to enter into a transfer agreement.

(4) The State agency has found that hospitals in the community have, in fact, refused to enter into a transfer agreement with the extended care facility in question.

(5) The State agency has taken into consideration the availability of extended care facilities in the community and the expected need of such services for eligible beneficiaries under the law.

§ 405.1134 Condition of participation—physical environment.

The extended care facility is constructed, equipped, and maintained to insure the safety of patients and provides a functional, sanitary, and comfortable environment. The following standards are guidelines to help State agencies to evaluate existing structures which do not meet Hill-Burton construction regulations in effect at the time of the survey, and to evaluate in all facilities those aspects of the physical environment which are not covered by such Hill-Burton regulations. They are to be applied to existing construction with discretion and in light of community need for service.

(a) *Standard; safety of patients.* The extended care facility is constructed, equipped, and maintained to insure the safety of patients. It is structurally sound and satisfies the following conditions:

(1) The facility complies with all applicable State and local codes governing construction.

(2) Fire resistance and flamespread ratings of construction, materials, and finishes comply with current State and local fire protection codes and ordinances.

(3) Permanently attached automatic fire-extinguishing systems of adequate capacity are installed in all areas considered to have special fire hazards including but not limited to boiler rooms, trash rooms, and nonfire resistant areas or buildings. In an extended care facility of two or more stories fire alarm systems providing complete coverage of the building are installed and inspected regularly. Fire extinguishers are conveniently located on each floor and in special hazard areas such as boiler rooms, kitchens, laundries, and storage rooms. Fire regulations are prominently posted and carefully observed.

(4) Doorways, passageways, and stairwells are wide enough for easy evacuation of patients and are kept free from obstruction at all times. Corridors are equipped with firmly secured handrails on each side. Stairwells, elevators, and all vertical shafts with openings have fire doors kept normally in closed position. Exit facilities comply with State and local codes and regulations.

(5) Unless the facility is of fire resistive construction, blind and nonambulatory or physically handicapped persons are not housed above the street level floor.

(6) Reports of periodic inspections of the structure by the fire control authority having jurisdiction in the area are on file in the facility.

(7) The building is maintained in good repair and kept free of hazards such as those created by any damaged or defective parts of the building.

(8) No occupancies or activities undesirable to the health and safety of patients are located in the building or buildings of the extended care facility.

(b) *Standard; favorable environment for patients.* The extended care facility is equipped and maintained to provide a functional, sanitary and comfortable environment. Its electrical and mechanical systems (including water supply and sewage disposal) are designed, constructed and maintained in accordance with recognized safety standards and comply with applicable State and local codes and regulations. The factors explaining the standard are as follows:

(1) Lighting levels in all areas of the facility are adequate and void of high brightness, glare, and reflecting surfaces that produce discomfort. Lighting levels are in accordance with recommendations of the Illuminating Engineering Society. The use of candles, kerosene oil lanterns, and other open flame methods of illumination is prohibited.

(2) An emergency electrical service, which may be battery operated if effective for 4 or more hours, covers lights at nursing stations, telephone switchboard, night lights, exit and corridor lights, boiler room, and the fire alarm system.

(3) The heating and air-conditioning systems are capable of maintaining adequate temperatures and providing freedom from drafts.

(4) An adequate supply of hot water for patient use is available at all times. Temperature of hot water at plumbing fixtures used by patients is automatically regulated by control valves and does not exceed 110° F. (110 degrees Fahrenheit).

(5) The facility is well-ventilated through the use of windows, mechanical ventilation, or a combination of both. Rooms and areas which do not have outside windows and which are used by patients or personnel are provided with functioning mechanical ventilation to change the air on a basis commensurate with the type of occupancy.

(6) All inside bathrooms and toilet rooms have forced ventilation to the outside.

(7) Laundry facilities (when applicable) are located in areas separate from patient units and are provided with the necessary washing, drying, and ironing equipment.

(c) *Standard; elevators.* Elevators are installed in the facility if patient bedrooms are located on floors above the street level. The factors explaining the standard are as follows:

(1) Installation of elevators and dumbwaiters complies with all applicable codes.

(2) Elevators are of sufficient size to accommodate a wheeled stretcher.

(d) *Standard; nursing unit.* Each nursing unit has at least the following basic service areas: Nurses' station, medicine storage and preparation area, space for storage of linen, equipment and supplies, and a utility room. The factors explaining the standard are as follows:

(1) A nurses' call system registers calls at the nurses' station from each patient bed, patient toilet room, and each bathtub or shower.

(2) Equipment necessary for charting and recordkeeping is provided.

(3) The medication preparation area is well-illuminated and is provided with hot and cold running water.

(4) The utility room is located, designed and equipped to provide areas for the separate handling of clean and soiled linen, equipment and supplies.

(5) Toilet and handwashing facilities are provided.

(e) *Standard; patient's bedrooms and toilet facilities.* Patients' bedrooms are designed and equipped for adequate nursing care and the comfort and privacy of patients. Each bedroom has or is conveniently located near adequate toilet and bathing facilities. Each bedroom has direct access to a corridor and outside exposure with the floor at or above grade level. The factors explaining the standard are as follows:

(1) Ordinarily rooms have no more than four beds with not less than 3 feet between beds.

(2) In addition to basic patient care equipment each patient unit has a nurses' call signal, an individual reading light, bedside cabinet, comfortable chair, and storage space for clothing and other possessions. In multiple bedrooms, each bed has flameproof cubicle curtains or their equivalent.

(3) It is desirable that each patient room have a lavatory with both hot and cold running water, unless provided in adjacent toilet or bathroom facilities.

(4) On floors where wheelchair patients are located, there is at least one toilet room large enough to accommodate wheelchairs.

(5) Each bathtub or shower is in a separate room or compartment which is large enough to accommodate wheelchair and attendant.

(6) At least one water closet, enclosed in a separate room or stall, is provided for each eight beds.

(7) Substantially secured grab bars are installed in all water closet and bathing fixture compartments.

(8) Doors to patient bedrooms are never locked.

(f) *Standard; facilities for isolation.* Provision is made for isolating infectious patients in well-ventilated single bedrooms having separate toilet and bathing facilities. Such facilities are also available to provide for the special care of patients who develop acute illnesses while in the facility and patients in terminal phases of illness.

(g) *Standard; examination rooms.* A special room (or rooms) is provided for examinations, treatments, and other therapeutic procedures. The factors explaining the standard are as follows:

(1) This room is of sufficient size and is equipped with a treatment table, lavatory or sink with other than hand controls, instrument sterilizer, instrument table, and necessary instruments and supplies.

(2) If the facility provides physical therapy, areas are of sufficient size to accommodate necessary equipment and facilitate the movement of disabled patients. Lavatories and toilets designed for the use of wheelchair patients are provided in such areas.

(h) *Standard; dayroom and dining area.* The extended care facility provides one or more attractively furnished multipurpose areas of adequate size for patient dining, diversional and social activities. The factors explaining the standard are as follows:

(1) At least one dayroom or lounge, centrally located, is provided to accommodate the diversional and social activities of the patients. In addition, several smaller dayrooms, convenient to patient bedrooms, are desirable.

(2) Dining areas are large enough to accommodate all patients able to eat out of their rooms. These areas are well-lighted and well-ventilated.

(3) If a multipurpose room is used for dining and diversional and social activities, there is sufficient space to accommodate all activities and prevent their interference with each other.

(i) *Standard; kitchen or dietary area.* The extended care facility has a kitchen or dietary area adequate to meet food service needs and arranged and equipped for the refrigeration, storage, preparation, and serving of food as well as for dish and utensil cleaning and refuse storage and removal. Dietary areas comply with the local health or food handling codes. Food preparation space is arranged for the separation of functions and is located to permit efficient service to patients and is not used for nondietary functions.

§ 405.1135 Condition of participation—housekeeping services.

The extended care facility provides the housekeeping and maintenance services necessary to maintain a sanitary and comfortable environment.

(a) *Standard; housekeeping services.* The facility provides sufficient housekeeping and maintenance personnel to maintain the interior and exterior of the facility in a safe, clean, orderly, and attractive manner. Nursing personnel are not assigned housekeeping duties. The factors explaining the standard are as follows:

(1) Housekeeping personnel, using accepted practices and procedures, keep the facility free from offensive odors, accumulations of dirt, rubbish, dust, and safety hazards.

(2) Floors are cleaned regularly. Polishes on floors provide a nonslip finish; throw or scatter rugs are not used except for nonslip entrance mats.

(3) Walls and ceilings are maintained free from cracks and falling plaster, and are cleaned and painted regularly.

(4) Deodorizers are not used to cover up odors caused by unsanitary conditions or poor housekeeping practices.

(5) Storage areas, attics, and cellars are kept safe and free from accumulations of extraneous materials such as refuse, discarded furniture, and old newspapers. Combustibles such as cleaning rags and compounds are kept in closed metal containers.

(6) The grounds are kept free from refuse and litter. Areas around buildings, sidewalks, gardens, and patios are kept clear of dense undergrowth.

(b) *Standard; pest control.* The facility is maintained free from insects and rodents. The factors explaining the standard are as follows:

(1) A pest control program is in operation in the facility. Pest control services are provided by maintenance personnel of the facility or by contract with a pest control company. Care is taken to use the least toxic and least flammable effective insecticides and rodenticides. These compounds are stored in nonpatient areas and in nonfood preparation and storage areas. Poisons are under lock.

(2) Windows and doors are appropriately screened during the insect breeding season.

(3) Harborages and entrances for insects and rodents are eliminated.

(4) Garbage and trash are stored in areas separate from those used for the preparation and storage of food and are removed from the premises in conformity with State and local practices. Containers are cleaned regularly.

(c) *Standard; linen.* The facility has available at all times a quantity of linen essential for the proper care and comfort of patients. Linens are handled, stored, and processed so as to control the spread of infection. The factors explaining the standard are as follows:

(1) The linen supply is at least three times the usual occupancy.

(2) Clean linen and clothing are stored in clear, dry, dust-free areas easily accessible to the nurses' station.

(3) Soiled linen is stored in separate well-ventilated areas, and is not permitted to accumulate in the facility. Soiled linen and clothing are stored separately in suitable bags or containers.

(4) Soiled linen is not sorted, laundered, rinsed, or stored in bathrooms, patient rooms, kitchens or food storage areas.

§ 405.1136 Condition of participation—disaster plan.

The extended care facility has a written procedure to be followed in case of fire or other disaster.

(a) *Standard; disaster plan.* The facility has a written procedure to be followed in case of fire, explosion or other emergency. It specifies persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating helpless patients, frequency of fire drills, and assignment of specific tasks and responsibilities to the personnel of each shift.

(b) The factors explaining the standard are as follows:

(1) The plan is developed with the assistance of qualified fire and safety experts.

(2) All personnel are trained to perform assigned tasks.

(3) Simulated drills testing the effectiveness of the plan are conducted on each shift at least three times a year.

(4) The plan is posted throughout the facility.

§ 405.1137 Condition of participation—utilization review plan.

(a) *Condition.* The extended care facility has in effect a plan for utilization review which applies at least to the services furnished by the facility to individuals entitled to benefits under title XVIII of the Act, and meets all other requirements of section 1861(k) of the Social Security Act. An acceptable utilization review plan provides for: (1) The review on a sample or other basis, of admissions, duration of stays, and professional services furnished; and (2) review of each case of continuous extended duration.

(b) *General.* (1) There are many types of plans which can fulfill the requirements of title XVIII of the Act. Extended care facilities wishing to establish their eligibility to participate will be required to submit a written description of their utilization review plan and a certification that it is currently in effect or that it will be in effect no later than the first day on which the extended care facility expects to become a participating provider of services. Ordinarily, this will constitute sufficient evidence to support a finding that the utilization review plan of the extended care facility is or is not in conformity with the statutory requirements.

(2) The review plan of an extended care facility should have as its overall objectives the maintenance of high quality patient care, more effective utilization of extended care services (through the mechanism of an educational approach involving study of patterns of care), the encouragement of appropriate utilization, and the assurance of continuity of care upon discharge (through, among other things, the accumulation of appropriate data on the availability of other facilities and services).

(3) The review of professional services furnished might include study of such conditions as overuse or underuse of services, proper use of consultation, and whether the required nursing and related care is initiated and carried out promptly. While review of lengths of stay for purposes of determining whether continued inpatient stay in the extended care facility is medically necessary, must be based on medical factors, the plan should take into account the need to assure that assistance is available to the physician in arranging for discharge planning.

(4) Costs incurred in connection with the implementation of the utilization review plan are includable in reasonable costs and are reimbursable to the extent that such costs relate to health insurance program beneficiaries.

(c) *Standard; responsibility for plan.* The operation of the utilization review plan is a responsibility of the medical profession. The plan for reviewing utilization in the facility is developed with the advice of the facility's group of professional personnel referred to in § 405.1122 and has the approval of the facility's medical staff, if any, and the facility's governing body.

(d) *Standard; statement of plan.* The extended care facility has a currently applicable, written description of its utilization review plan. Such description includes:

(1) The organization and composition of the committee(s) which will be responsible for the utilization review functions;

(2) Frequency of meetings;

(3) The type of records to be kept;

(4) The method to be used in selecting cases on a sample or other basis;

(5) The definition of what constitutes the period or periods of extended duration;

(6) The relationship of the utilization review plan to claims administration by a third party;

(7) Arrangements for committee reports and their dissemination;

(8) Responsibilities of the facility's administrative staff in support of utilization review.

(e) *Standard; conduct of review.* (1) The utilization review function is conducted by one or a combination of the following (except that with respect to facilities lacking an organized medical staff, review is conducted only as in subdivision (ii) or (iii) of this subparagraph):

(i) By a staff committee of the facility, which is composed of two or more physicians, with or without the inclusion of other professional personnel; or

(ii) By a committee(s) or group(s) outside the facility composed as in subdivision (i) of this subparagraph which is established by the local medical society and some or all of the hospitals and extended care facilities in the locality; or

(iii) Where a committee(s) or group(s) as described in subdivision (i) or (ii) of this subparagraph has not been established to carry out all the utilization review functions prescribed by the Act, by a committee(s) or group(s) composed as in subdivision (i) of this subparagraph, and sponsored and organized in such manner as approved by the Secretary.

(2) The factors explaining the standard are as follows:

(i) The medical care appraisal and educational aspects of review on a sample or other basis, and the review of long-stay cases need not be done by the same committee or group.

(ii) In a facility with an organized medical staff, all of the review functions may be carried out in the facility by a committee of the whole or a medical care appraisal committee.

(iii) The committee(s) include at least one physician member who does not have a direct financial interest in the institution.

(iv) Under subparagraph (1) (iii) of this paragraph, any sponsorship of a utilization committee or group is ordinarily acceptable if it is composed as in subparagraph (1) (i) of this paragraph.

(f) *Standard; basis for review.* (1) Reviews are made, on a sample or other basis, of admissions, duration of stays, and professional services (including drugs and biologicals) furnished, with respect to the medical necessity of the services, and for the purpose of promoting the most efficient use of available health facilities and services. Such reviews emphasize identification and analysis of patterns of patient care in order to maintain consistent high quality. The review is accomplished by considering the data obtained by any one or any combination of the following:

(i) By use of services and facilities of external organizations which compile statistics, design profiles, and produce other comparative data; or

(ii) By cooperative endeavor with the fiscal intermediary or State agency; or

(iii) By studies of medical records of patients of the institution.

(2) The factors explaining the standard are as follows:

(i) Some review functions are carried out on a continuing basis.

(ii) Reviews include a sample of physician recertifications of medical necessity for extended care facility services, as made for purposes of the Health Insurance for the Aged Program.

(g) *Standard; extended duration cases.* (1) Reviews are made of each beneficiary case of continuous extended duration. The definition of such extended duration is reasonable and consonant with the intent of the benefit. The extended care facility's utilization review plan specifies the number of continuous days of stay in the extended care facility following which a review is made to determine whether further inpatient extended care services are medically necessary. The plan may specify a different number of days for different classes of cases.

specify a different number of days for different classes of cases.

(2) Reviews for such purpose are made no later than the seventh day following the last day of the period of extended duration specified in the plan. No physician has review responsibility for any case of continuous extended duration in which he was professionally involved.

(3) If physician members of the committee decide, after opportunity for consultation is given the attending physician by the committee, that further inpatient stay is not medically necessary, there is to be prompt notification (within 48 hours) in writing to the facility, the physician responsible for the patient's care, and the patient or his representative. Because there are significant divergences in opinion among individual physicians with respect to evaluation of medical necessity for posthospital extended care services, the judgment of the attending physician in an extended stay case is given great weight, and is not rejected except under unusual circumstances.

(h) *Standard; maintenance of records of review.* Records are kept of the activities of the committee; and reports are regularly made by the committee to the executive committee of the medical staff (if any) or to the facilities, institutions, and organizations sponsoring the utilization review plan, and relevant information and recommendations are reported through usual channels to the entire medical staff and the governing body of the facility, and the sponsor of the plan. The factors explaining the standard are as follows:

(1) The extended care facility administration studies and acts upon Administrative recommendations made by the utilization review committee.

(2) A summary of the number and types of cases reviewed, and the findings, are part of the records of the committee and the participating facilities and institutions.

(3) Minutes of each committee meeting are maintained.

(4) Committee action in extended stay cases is recorded, with cases identified only by case number when possible.

(i) *Standard; staff cooperation with review committee.* The committee(s) having responsibility for utilization review functions have the support and assistance of the facility's administrative staff in assembling information, facilitating chart reviews, conducting studies, exploring ways to improve procedures, maintaining committee records, promoting the most efficient use of available health services and facilities, and in planning for the patient's continuity of care upon discharge. The factors explaining the standard are as follows:

(1) With respect to each of these activities, an individual or department is designated as being responsible for the particular service.

(2) In order to encourage the most efficient use of available health services and facilities, assistance to the physician in timely planning for care following extended facility care is initiated as promptly as possible, either by the facility's staff, or by arrangement with other agencies. For this purpose, the facility makes available to the attending physician current information on resources available for continued noninstitutional or custodial care of patients and arranges for prompt transfer of appropriate medical and nursing information in order to assure continuity of care upon discharge of a patient.

[F.R. Doc. 67-12758; Filed, Oct. 27, 1967; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 20—FROZEN DESSERTS

Ice Cream, Identity Standard; Confirmation of Effective Date of Order Listing Neutral and Alkaline Mineral Salts as Optional Ingredients

In the matter of amending the standard of identity for ice cream (21 CFR 20.1) to list as optional ingredients the neutral mineral salts sodium citrate, disodium phosphate, tetrasodium pyrophosphate, and sodium hexametaphosphate, and the alkaline mineral salts calcium oxide, magnesium oxide, calcium hydroxide, and magnesium hydroxide:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of September 6, 1967 (32 F.R. 12750). Accordingly, the amendment promulgated by that order will become effective November 5, 1967.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: October 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12743; Filed, Oct. 27, 1967; 8:47 a.m.]

PART 27—CANNED FRUITS AND FRUIT JUICES

Canned Artificially Sweetened Fruits, Certain Identity Standards; Confirmation of Effective Date of Order Listing Additional Optional Ingredients

In the matter of amending certain identity standards (21 CFR 27.6, 27.14 et al.) for artificially sweetened canned fruits to list cyclamic acid (cyclohexylsulfamic acid) as an optional nonnutritive sweetener and to list edible organic acids and salts as optional flavor-enhancing ingredients with suitable label declaration:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of

Health, Education, and Welfare (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of August 31, 1967 (32 F.R. 12603). Accordingly, the amendments promulgated by that order will become effective on October 30, 1967.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: October 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12744; Filed, Oct. 27, 1967; 8:47 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Trifluralin

A petition (PP 7F0565) was filed with the Food and Drug Administration by Elanco Products Co., a division of Eli Lilly and Co., 740 South Alabama Street, Indianapolis, Ind. 46206, proposing the establishment of a tolerance of 0.05 part per million for residues of the herbicide trifluralin (α,α,α-trifluoro-2,6-dinitro-*N*,*N*-dipropyl-*p*-toluidine) in or on the raw agricultural commodity alfalfa. Subsequently the petition was amended to propose tolerances of 0.05 part per million in or on fresh alfalfa and 0.2 part per million in or on alfalfa hay.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purpose for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120), § 120.207 is revised to read as follows to establish the subject tolerances:

§ 120.207 Trifluralin; tolerances for residues.

Tolerances for residues of the herbicide trifluralin (α,α,α-trifluoro-2,6-dinitro-*N*,*N*-dipropyl-*p*-toluidine) in or on raw agricultural commodities are established as follows:

1 part per million in or on carrots (with or without tops).

0.2 part per million (negligible residue) in or on alfalfa hay.

0.05 part per million (negligible residue) in or on alfalfa (fresh), cantaloups, cucumbers, potatoes, and sugar beets.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 23, 1967.

J. K. KIRK,
Associate Commissioner for compliance.

[F.R. Doc. 67-12745; Filed, Oct. 27, 1967; 8:47 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-Chloro-*N*-Isopropylacetanilide

A petition (PP 6F0479) was filed with the Food and Drug Administration by the Monsanto Co., 800 North Lindberg Boulevard, St. Louis, Mo. 63166, proposing the establishment of tolerances for residues of *N*-isopropylaniline (a metabolite of and calculated as 2-chloro-*N*-isopropylacetanilide) from the use of the herbicide 2-chloro-*N*-isopropylacetanilide in or on raw agricultural commodities as follows: 3 parts per million in or on sorghum forage and silage; 1.5 parts per million in or on corn forage and silage and soybeans; and 0.2 part per million in or on grain sorghum.

The petitioner later withdrew the request for a tolerance in or on soybeans and modified the proposal for tolerances as reflected by the order set forth below.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established in this oredr will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated by him to the Commissioner (21 CFR 2.120), § 120.211 is amended by adding in reverse numerical sequence three new tolerances, as follows:

§ 120.211 2-Chloro-*N*-isopropylacetanilide; tolerances for residues.

* * * * *

3 parts per million in or on sorghum forage.

1.5 parts per million in or on corn forage.

* * * * *

0.25 part per million in or on sorghum grain.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections, thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12746; Filed, Oct. 27, 1967; 8:47 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

SODIUM STEAROYL-2-LACTYLATE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7A2181) filed by C. J. Patterson Co., 3947 Broadway, Kansas City, Mo. 64111, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of sodium stearoyl-2-lactylate as an emulsifier, dough conditioner, or whipping agent in certain foods as set forth below. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended by adding to Subpart D the following new section:

§ 121.1211 Sodium stearoyl-2-lactylate.

The food additive sodium stearoyl-2-lactylate may be safely used in food in

accordance with the following prescribed conditions:

(a) The additive, which is a mixture of sodium salts of stearoyl lactylic acids and minor proportions of other sodium salts of related acids, is manufactured by the reaction of stearic acid and lactic acid and conversion to the sodium salts.

(b) The additive meets the following specifications:

Acid number, 60–80.
Sodium content, 3.5 percent–5.0 percent.
Lactic acid content, 31 percent–34 percent.
Ester number, 150–190.

(c) It is used or intended for use as an emulsifier, dough conditioner, or whipping agent in the following foods when standards of identity do not preclude such use: Icings, fillings, and toppings; baked products; pancakes and waffles; and prepared mixes for any of these foods.

(d) It is used in an amount not greater than required to produce the intended physical or technical effect.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12751; Filed, Oct. 27, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PAPER AND PAPERBOARD

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8B2202) filed by American Cyanamid Co., Wayne, N.J. 07470, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of the additional optional substance specified below in the formulation of paper and paperboard used in contact with aqueous and fatty foods. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2526(b)(2) is amended by alphabetically inserting in the list of substances a new item as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Tetrasodium *N*-(1,2-dicarboxyethyl)-*N*-octadecylsulfosuccinamate.	For use only as an emulsifier in resin latex coatings, and limited to use at a level not to exceed 0.05% by weight of the coating solids.
* * *	* * *

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12749; Filed, Oct. 27, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANTIOXIDANTS AND/OR STABILIZERS FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7B2162) filed by Monsanto Co., Hydrocarbons and Polymers Division, 730 Worchester Street, Indian Orchard, Mass. 01051, and other relevant material, has concluded that the food additive regulations should be amended to provide for the safe use of calcium myristate and zinc palmitate as antioxidants and/or stabilizers in polymers used in the manufacture of articles intended for food-contact use. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 121.2566 (b) is amended by alphabetically inserting in the list of substances two new items, as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

* * * * * *

(b) * * *

Limitations
* * *
Calcium myristate----
* * *
Zinc palmitate----
* * *

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 20, 1967.

J. K. KIRK,
Associate Comissioner for Compliance.

[F.R. Doc. 67-12747; Filed, Oct. 27, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS FOR POLYOLEFIN FILMS

The Commissioner of Food and Drugs, having evaluated the data in a petition

(FAP 7B2055) filed by E. I. du Pont de Nemours & Co., Inc., 1007 Market Street, Wilmington, Del. 19898, and other relevant material, has concluded that the food additive regulations should be amended to provide for use of an additional optional substance in the formulation of resinous and polymeric coatings for polyolefin films for food-contact use. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education; and Welfare (21 CFR 2.120), § 121.2569(b)(3)(iii) is amended by alphabetically inserting in the list of substances a new item, as follows:

§ 121.2569 Resinous and polymeric coatings for polyolefin films.

* * * * * * *

(b) * * *

(3) * * *

List of substances	*Limitations*
* * *	* * *
(iii) * * *	
* * *	* * *
Polyvinyl alcohol, minimum viscosity of 4% aqueous solution at 20° C. of 4 centipoises and percent alcoholysis of 87–100.	For use only as a dispersing agent at levels not to exceed 6% of total coating weight in coatings for polyolefin films provided the finished polyolefin films contact food only of the types identified in § 121.2526(c), table 1, under types V, VIII, and IX.
* * *	* * *

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12750; Filed, Oct. 27, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

VINYLIDENE CHLORIDE COPOLYMER COATINGS FOR POLYCARBONATE FILM

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 7B2159) filed by Film Operations, American Viscose Division, FMC Corp., Marcus Hook, Pa. 19061, and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of vinylidene chloride copolymer food-contact coatings for polycarbonate film. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2600 Vinylidene chloride copolymer coatings for polycarbonate film.

Vinylidene choloride copolymer coatings identified in this section and applied on polycarbonate film may be safely used as food-contact surfaces, in accordance with the following prescribed conditions:

(a) The coating is applied as a continuous film over one or both sides of a base film produced from polycarbonate resigns complying with § 121.2574.

(b) The coatings are prepared from vinylidene chloride copolymers produced by copolymerizing vinylidene chloride with acrylonitrile, methyl acrylate, and acrylic acid. The finished copolymers contain at least 50 weight-percent of polymer units derived from vinylidene chloride.

(c) Optional adjuvant substances employed in the production of the coatings or added thereto to impart desired properties may include sodium dodecylbenzenesulfonate in addition to substances described in § 121.2500(d).

(d) The coating in the finished form in which it is to contact food, when extracted with the solvent or solvents characterizing the type of food, and under the conditions of time and temperature characterizing the conditions of its intended use as determined from tables 1 and 2 of § 121.2526(c), shall yield net chloroform-soluble extractives in each extracting solvent not to exceed 0.5 milligram per square inch of coated surface as determined by the methods described in § 121.2526(d). In testing the finished food-contact articles, a separate test sample is to be used for each required extracting solvent.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12752; Filed, Oct. 27, 1967; 8:48 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Plastic Balloon Novelties; Exemption From Classification as Banned Hazardous Substance

The Commissioner of Food and Drugs has received a request, submitted pursuant to section 2(q)(1)(B)(i) of the Federal Hazardous Substances Act and § 191.62(c) of the regulations thereunder, to exempt the article described below from classification as a "banned hazardous substance," as defined by section 2(q)(1)(A) of the act, because the article's functional purpose requires inclusion of a hazardous substance, it bears labeling giving adequate directions and warnings for safe use, and it is intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings.

The Commissioner has determined on the basis of the facts submitted, and other relevant information, that the requested exemption is consistent with the purpose of the act. Therefore, pursuant to the provisions of the act (sec. 2(q)(1)(B)(i), 74 Stat. 374, 80 Stat. 1304; 15 U.S.C. 1261) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 191.65(a) (32 F.R. 11322) is amended by adding thereto a new subparagraph, as follows:

§ 191.65 Exemptions from classification as banned hazardous substances.

(a) * * *

(6) Novelties consisting of a mixture of polyvinyl acetate, U.S. Certified Colors, and not more than 25 percent by weight of acetone, and intended for blowing plastic balloons.

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since the Federal Hazardous Substances Act contemplates such exemptions under certain conditions.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 2(q)(1)(B)(i), 74 Stat. 374, 80 Stat. 1304; 15 U.S.C. 1261)

Dated: October 24, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12753; Filed, Oct. 27, 1967; 8:48 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1600—MAINTENANCE OF HIGH ETHICAL AND MORAL STANDARDS OF CONDUCT BY OFFICERS AND EMPLOYEES OF THE SELECTIVE SERVICE SYSTEM

Pursuant to the regulations of the Civil Service Commission on Employee Responsibility and Conduct implementing Executive Order No. 11222, prescribing Standards of Ethical Conduct for Government Officers and Employees, I hereby prescribe the following revised and amended Part 1600 governing the maintenance by officers and employees of the Selective Service System of high ethical and moral standards of conduct:

Subpart A—General Provisions

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

Subpart D—Regulations Governing Statements of Employment and Financial Interests

AUTHORITY: The provisions of this Part 1600 issued under E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104.

Subpart A—General Provisions

§ 1600.735–1 Conduct requirements in general.

(a) The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government.

(b) Employees of the Selective Service System shall conduct themselves in such a manner that the work of the System is effectively accomplished; shall be courteous, considerate, and prompt in dealing with or serving the public; and shall conduct themselves in both their official and personal lives in a manner that will not bring discredit or embarrassment to the Selective Service System.

(c) Employees shall observe the applicable laws and regulations governing participation in political activities; avoid any discrimination because of race, color, religion, national origin, or sex; economically utilize, protect, and conserve Federal property entrusted to them; and conduct all their official activities in a manner which is above reproach and free from any indiscretions or acceptance of gratuities or favors which would cast doubt or suspicion upon themselves or the administration of the Selective Service System.

§ 1600.735–2 Definitions.

The following definitions shall govern in this interpretation of regulations in this part.

(a) "Employee" means an officer or employee of the Selective Service System including uncompensated persons, but does not include a special Government employee or a member of the uniformed services.

(b) "Executive order" means Executive Order 11222 of May 8, 1965.

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(d) "Special Government employees" means a "special Government employee" as defined in section 202 of title 18 of the United States Code who is employed in the executive branch, but does not include a member of the uniformed services. Excluding a person in the uniformed services, that section covers an officer or employee who is appointed or employed, with or without compensation, to perform temporary duties, either on a full-time or intermittent basis, for not more than 130 days in any period of 365 consecutive days. (For the benefit of Reserve and National Guard Officers it should be noted that under that section a Reserve or National Guard Officer, unless otherwise an officer or employee of the United States, is classified as a special Government employee while on active duty solely for training and if serving on active duty involuntarily is classified as a special Government employee during the whole period of his involuntary service. A Reserve or National Guard Officer who is involuntarily serving a period of extended active duty in excess of 130 days is classified as an officer of the United States and is subject to all of the prohibitions imposed by the conflict-of-interest laws.)

(e) "Uniformed services" has the meaning given that term by section 101(3) of title 37 of the United States Code, which states that "'uniformed services' means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service."

§ 1600.735–3 Applicability to members of the uniformed services.

The Executive order applies to all officers and employees in the executive branch but the Civil Service regulations (5 CFR Part 735) and the regulations in this part do not. Separate regulations containing essentially the same provisions will be published by the agencies having jurisdiction over the members of the uniformed services.

§ 1600.735–4 Informing employees of standards of conduct.

(a) The provisions of this part and available counseling service shall be

brought to the attention of all compensated and uncompensated employees and special Government employees of the Selective Service System immediately after this part is issued and semiannually thereafter. New employees and special Government employees shall be informed thereof at the time of their appointment. A copy of this part shall be kept permanently posted on all bulletin boards and a copy shall be given to each employee and special Government employee.

(b) A presentation on "ethics in government" shall be included in orientation programs for new employees, in supervisory training courses, and in staff training conferences.

§ 1600.735–5 Counseling service.

(a) The Director of Selective Service shall designate a counselor for the Selective Service System to serve as the designee to the Civil Service Commission on matters covered by the regulations in this part. The counselor shall be responsible for coordination of the counseling service as provided in paragraph (b) of this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by this part are available to deputy counselors.

(b) The Director of Selective Service shall designate deputy counselors for the Selective Service System. Deputy counselors shall give authoritative advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by this part.

§ 1600.735–6 Reviewing statements and reporting conflicts of interest.

All statements of employment and financial interests submitted under § 1600.735–62 shall be forwarded to the Director of Selective Service through the counselor. The employee or special Government employee shall be given an opportunity to explain any conflict of interest or any appearance of conflict.

§ 1600.735–7 Disciplinary and other remedial action.

(a) In addition to any penalty prescribed by law appropriate disciplinary action shall be taken or initiated by the superiors of employees and special Government employees who violate laws, rules, or regulations on conduct or fail to observe the standards of conduct prescribed in this part.

(b) When, after consideration of the explanation of the employee or special Government employee provided by § 1600.735–6, the Director of Selective Service decides that remedial action is required, he shall take immediate action to end the conflicts or appearance of conflicts of interest. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of his conflicting interest;

(3) Disciplinary action; or

(4) Disqualification for a particular assignment. Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, executive orders, and regulations.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§ 1600.735–20 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person;

(c) Impeding Government efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making a Government decision outside official channels; or

(f) Affecting adversely the confidence of the public in the integrity of the Government.

§ 1600.735–21 Gifts, entertainment, and favors.

(a) Employees of the Selective Service System shall not solicit or accept, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan which is, or may appear to be, designed to in any manner influence official conduct particularly from a person who:

(1) Is seeking to obtain contractual or other business or financial relations with the Selective Service System; or

(2) Has interests that may be substantially affected by the performance or nonperformance of this duty.

No gift shall be accepted whenever the employee has any reason to believe that it would not have been made except for his official position or that the donor's private interests are likely to be affected by his actions or actions of the Selective Service System.

(b) Appropriate exceptions to paragraph (a) of this section include those that:

(1) Govern obvious family or personal relationships (such as those between the parents, children, or spouse of the employee and the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Permit acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Permit acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) Permit acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

(c) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself (5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

(e) Neither this section nor § 1600.735–22 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor does it allow an employee to be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B–128527 of the Comptroller General dated March 7, 1967.

§ 1600.735–22 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest; or

(2) Outside employment which tends to impair his mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government.

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this part. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Director of Selective Service gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(d) An employee shall not engage in outside employment under a State or local government, except in accordance with Part 734 of the Civil Service regulations (5 CFR Part 734).

(e) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law.

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organization.

§ 1600.735–23 Financial interests.

(a) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law or the provisions of this part.

§ 1600.735–24 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

§ 1600.735–25 Misuse of information.

Employees shall not disclose official information without either appropriate general or specific authority under regulations of the Selective Service System, and shall not, directly or indirectly, make use of, or permit others to make use of, official information in the possession of the Selective Service System, not made available to the general public, for the purpose of furthering a private interest. Nothing in this section shall be construed as directing any employee to withhold unclassified information from the press or public. This section is intended solely to limit prior distribution of confidential information to an individual or group of individuals where the possession of such information would give the individual or individuals advantages not accorded to other citizens.

§ 1600.735–26 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt.

§ 1600.735–27 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 1600.735–28 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government. The use of intoxicants in any space occupied by the Selective Service System is prohibited.

§ 1600.735–29 Miscellaneous statutory provisions.

Each employee shall acquaint himself with the statutes relating to his ethical and other conduct as an employee including:

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service". (Appendix C to this part.)

(b) Parts of Chapter 11 of title 18, United States Code relating to bribery, graft, and conflicts of interests. (Appendix A to this part.)

(c) Other laws concerning the conduct of employees. (Appendix B to this part.)

Subpart C—Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 1600.735–41 Applicable regulations.

The ethical and other conduct of special Government employees shall be governed by this subpart and such other provisions of this part as may be specifically applicable.

§ 1600.735–42 Use of Government employment.

A special Government employee shall not use his selective service employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

§ 1600.735–43 Use of inside information.

(a) A special Government employee shall not use inside information obtained as a result of his selective service employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purpose of this part, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) Special Government employees may teach, lecture, or write in a manner not inconsistent with § 1600.735–22 in regard to employees.

§ 1600.735–44 Coercion.

A special Government employee shall not use his selective service employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

§ 1600.735–45 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with his agency anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) Special Government employees are subject to such appropriate exceptions as are authorized for employees in § 1600.735–21.

§ 1600.735–46 Miscellaneous statutory provisions.

Each special Government employee shall acquaint himself with the statutes relating to his ethical and other conduct referred to in § 1600.735–29.

Subpart D—Regulations Governing Statements of Employment and Financial Interests

§ 1600.735–61 Form and content of statements.

The statements of employment and financial interests required under this subpart for use by employees and special Government employees shall contain the information required by the Commission in the Federal Personnel Manual.

§ 1600.735–62 Employees required to submit statements.

Except as provided in § 1600.735–63, the Director of Selective Service shall require statements of employment and financial interests from the following:

(a) The Deputy Director of Selective Service.

(b) The Assistant Director of Selective Service.

(c) The Assistants to the Director of Selective Service.

(d) The General Counsel.

(e) The Chief Legislative and Liaison Officer.

(f) The Chief Medical Officer.

(g) The Chief Planning Officer.

(h) The Adjutant General.

(i) The Public Information Officer.

(j) The Chief, Administrative Division.

(k) The Chief, Manpower Division.

(l) The Chief, Fiscal and Procurement Division.

(m) The Chief, Communications and Records Division.

(n) The Chief, Research and Statistics Division.

(o) The Chief, Field Division.

(p) Regional Field Officers.

(q) The Security Control Officer.

(r) The Assistant Security Control Officer.

(s) The Personnel Security Officer.

(t) The Assistant Personnel Security Officer.

(u) Each State Director of Selective Service.

(v) Employees paid at a level of the Executive Schedule in Subchapter II of Chapter 53 of title 5, United States Code. Other positions may be designated from time to time by the Director of Selective Service.

§ 1600.735–62a Employee's complaint on filing requirement.

An employee required to submit a statement under the provisions of this part who believes that his position has been improperly included under § 1600.735–62 may have the decision to include the position reviewed under the Selective Service grievance procedures.

§ 1600.735–63 Employees not required to submit statements.

A statement of employment and financial interests is not required by this subpart from an agency head, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, or a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under section 401 of the Executive order.

§ 1600.735–64 Time and place for submission of employees' statements.

An employee required to submit a statement of employment and financial interests under the provisions of this part shall submit that statement to the Director of Selective Service not later than:

(a) Ninety days after the effective date of this part if employed on or before that effective date;

(b) Thirty days after his entrance on duty, but not earlier than ninety days after the effective date, if appointed after that effective date.

§ 1600.735–65 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or Subpart B of this part.

§ 1600.735–66 Interests of employees' relatives.

The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose of this section, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

§ 1600.735–67 Information not known by employees.

If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

§ 1600.735–68 Information prohibited.

This subpart does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a profesional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

§ 1600.735–69 Confidentiality of employees' statements.

Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence. The Director of Selective Service, or qualified employees designated by him, shall review and retain the statements. Employees so designated are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this part. Information from a statement may not be disclosed except as the U.S. Civil Service Commission or the Director of Selective Service may determine for good cause shown.

§ 1600.735–70 Effect of employees' statements on other requirements.

The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

§ 1600.735–71 Specific provisions for special Government employees.

(a) Each special Government employee shall submit a statement of employment and financial interests which reports:

(1) All other employment; and

(2) The financial interests of the special Government employee which the Director of Selective Service determines are relevant in the light of the duties he is to perform.

(b) The Director of Selective Service may waive the requirement of paragraph (a) of this section for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or an expert when he finds that the duties of the postion held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(c) A statement of employment and financial interests required to be submitted under this section shall be submitted not later than the time of employment of the special Government employee as provided in the agency regulations. Each special Government employee shall keep his statement current throughout his employment with the agency by the submission of supplementary statements.

This Part 1600 was approved by the Civil Service Commission on September 27, 1967.

Effective date. This revised and amended Part 1600 shall become effective upon publication in the FEDERAL REGISTER.

[SEAL] LEWIS B. HERSHEY,
Director of Selective Service.

OCTOBER 25, 1967.

APPENDIX A—BRIBERY, GRAFT, AND CONFLICT OF INTEREST LAWS

1. (a) Section 203 of title 18 of the United States Code makes it unlawful for a Government officer or employee (including a special Government employee, as provided in paragraph 1(b) below) to, directly or indirectly, ask, receive, or agree to receive any compensation for any service rendered on behalf of another person before any department, agency, or officer of the United States in relation to any proceeding, contract, claim, or other particular matter in which the United States is a party or has a direct and substantial interest.

(b) Section 203 also makes it unlawful for a special Government employee to, directly or indirectly, ask, receive, or agree to receive

any compensation for any services rendered on behalf of another person before any department, agency, or officer of the United States in relation to any proceeding, contract, claim, or other particular matter in which the United States is a party or has a direct and substantial interest (i) in which he has participated personally and substantially in the course of his Government duties or (ii) if it is pending in his department or agency and he has served therein more than 60 days in the immediately preceding period of 365 days, even though he has not participated in the matter personally and substantially.

2. (a) Under section 205 of title 18 of the United States Code it is unlawful for a Government officer or employee, other than in the proper discharge of his official duties, (i) to act as agent or attorney for prosecuting any claim against the United States, including a claim in court, whether for compensation or not, or to receive a gratuity, or a share or interest in any such claim, for assistance in the prosecution thereof, or (ii) to act as agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

(b) Section 205 has a limited application to a special Government employee and makes it unlawful for him to act as agent or attorney only (i) in a matter involving a specific party or parties in which he has participated personally and substantially in his governmental capacity, and (ii) in a matter involving a specific party or parties which is before his department or agency, if he has served therein more than 60 days in the immediately preceding period of 365 days.

3. Section 207 of title 18 of the United States Code makes it unlawful for a former officer or employee, including a former special Government employee, to act as agent or attorney for anyone other than the United States in any particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as a Government officer or employee. Section 207 also makes it unlawful for any former officer or employee for 1 year after his Government employment ceases to appear personally as agent or attorney for another before any court or department or agency of the Government in connection with any particular matter in which the United States is a party or is directly and substantially interested and which was within the area of his official responsibility as a Government officer or employee within 1 year prior to the termination of such responsibility.

4. Under section 208 of title 18 of the United States Code it is unlawful for an officer or employee, including a special Government employee, to participate personally and substantially in any Government action, proceeding, or other particular matter in which to his knowledge, he, his spouse, minor child, or partner has a financial interest, or in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest.

5. Section 209 of title 18 of the United States Code makes it unlawful for an officer or employee to receive, and for anyone to pay him, any salary or supplementation of salary from a private source as compensation for his services to the Government. Section 209 does not apply to a special Government employee or to anyone serving the Government without compensation, whether or not he is a special Government employee.

6. Under the provisions of section 13(a) of the Military Selective Service Act of 1967, sections 203, 205, and 207 of title 18, United States Code, do not apply to uncompensated officers or employees of the Selective Service System or to the members of the National Selective Service Appeal Board.

APPENDIX B—OTHER LAWS CONCERNING THE CONDUCT OF EMPLOYEES

1. Section 1913 of title 18 of the United States Code prohibits lobbying with appropriated moneys.

2. Section 7311 of title 5 and section 1918 of title 18 of the United States Code prohibits Federal employment of persons who are disloyal or assert the right to strike against the Government.

3. Section 784 of title 50 of the United States Code prohibits the employment of a member of a Communist organization.

4. Section 793 of title 18 of the United States Code and section 783 of title 50 of the United States Code prohibits the disclosure of classified information and section 1905 of title 18 of the United States Code prohibits the disclosure of confidential information.

5. Section 7352 of title 5 of the United States Code concerning the habitual use of intoxicants to excess.

6. Section 638a(c) of title 31 of the United States Code prohibits the use of Government vehicles or aircraft for other than official purposes.

7. Section 1719 of title 18 of the United States Code prohibits the use of official envelopes or labels to avoid payment of postage on private mail.

8. Section 1917 of title 18 of the United States Code prohibits the use of deceit in an examination or personnel action in connection with Government employment.

9. Section 1001 of title 18 of the United States Code prohibits fraud or false statements in a Government matter.

10. Sections 285 and 2071 of title 18 of the United States Code prohibits the concealing, mutilation, destruction, or other improper use of Government documents or records.

11. Section 503 of title 18 of the United States Code prohibits certain improper activities relating to Government transportation requests.

12. Sections 641, 643, and 654 of title 18 of the United States Code prohibits the embezzlement of Government money or property, the failure to account for public money, and the embezzlement of the money or property of another person in the possession of an employee by reason of his employment.

13. Subchapter III of Chapter 73 of title 5 of the United States Code and sections 602, 603, 607, and 608 of title 18 of the United States Code prohibits certain political activities (Under section 13(a) of the Military Selective Service Act of 1967, 5 U.S.C. sections 7324–7327 do not apply to uncompensated officers and employees of the Selective Service System or to members of the National Selective Service Appeal Board).

14. Section 219 of title 18 of the United States Code prohibits an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act.

APPENDIX C—HOUSE CONCURRENT RESOLUTION 175, 85TH CONGRESS, 2D SESSION

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party of their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

Passed July 11, 1958.

[F.R. Doc. 67-12776; Filed, Oct. 27, 1967; 8:50 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

PART 9-7—CONTRACT CLAUSES

Miscellaneous Amendments

New Subpart 9-4.55 sets forth policies and procedures applicable to competitive procurements on a fixed-price or unit-price basis for known requirements of supplies or services over a multiyear period when the total funds required are not available for the entire procurement at the time the procurement contract is executed.

1. Section 9-4.000-50, *Policy, AEC contractors,* is revised to read as follows:

§ 9-4.000-50 Policy, AEC contractors.

(a) The following portions of this part constitute specific provisions which the contracting officer shall bring to the attention of AEC contractors, where applicable, for appropriate action.

Section or subpart	*Subject*
AECPR 9-4.5003	"Representation" for use in subcontracts and purchase orders of prime contractor holding statutory indemnity agreement.
AECPR 9-4.54	Contracts and Subcontracts Utilizing Enriched Uranium (Nonsection 53).

(b) The following portions of this part constitute specific provisions which the contracting officer shall bring to the attention of Class A cost-type contractors

as constituting areas which require appropriate treatment in the development of statements of contractor procurement practices, in order to carry out AEC basic policies set forth in AECPR 9–1.5203.

Section	*Subject*
AECPR 9–4.5501	Policy, multiyear procurement.

2. New Subpart 9–4.55 is added as follows:

Subpart 9–4.55—Multiyear Procurement

Sec.

AUTHORITY: The provisions of this Subpart 9–4.55 issued under sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486.

Subpart 9–4.55—Multiyear Procurement

§ 9–4.5500 Scope of subpart.

This subpart sets forth policies and procedures applicable to competitive procurements on a fixed-price or unit-price basis for known requirements of supplies or services over a multiyear period when the total funds required are not available for the entire procurement at the time the procurement contract is executed. This subpart does not apply to long-term contracts which are fully obligated at the time of execution, or which are otherwise specifically authorized by law (e.g., section 161u. of the Atomic Energy Act of 1954, as amended).

§ 9–4.5501 Policy.

(a) It is AEC policy to use the multiyear procurement method to the maximum extent consistent with the requirements of this subpart in order to: (1) Stimulate maximum realistic competition by minimizing competitive disadvantage or disinterest in procurements involving, at least initially, substantial capital or noncapital startup costs or make-ready expense; or (2) obtain lower prices in those procurements which provide opportunity for substantial cost savings and other advantages through assurance of continuity of production or service over longer periods of time.

(b) The multiyear procurement method shall not be used:

(1) If funds covering the procurement are limited by statute for obligation during the fiscal year in which the procurement contract is executed;

(2) When the supply or service being procured is regularly produced or provided and offered for sale in substantial quantities in a commercial market reasonably available;

(3) For quantities in excess of the planned requirements set forth in, or in support of, current approved AEC Program and Financial Plans or for periods in excess of 3 years; or

(4) When any one of the criteria set forth in § 9–4.5502 is not present.

(c) In any multiyear procurement, it is AEC policy to consider the desirability of obtaining options to renew the contract for reasonable periods at prices not to include any nonrecurring costs such as charges for plant and equipment already amortized. In addition, where a multiyear procurement involves an initial investment in plant and equipment which will constitute an appreciable portion of the cost of contract performance, it is AEC policy to consider the desirability of reserving the right, upon payment of the unamortized portion of the plant or equipment, to take title thereto under appropriate circumstances.

§ 9–4.5502 Criteria for use of multiyear procurement.

All of the following criteria must be met in order to procure on a multiyear basis:

(a) Significantly reduced unit prices can be reasonably anticipated over successive annual procurements by reason of continuity of production or service or by reason of elimination or reduction of repetitive substantial startup costs or substantial contingent expense, including such costs or expenses as preproduction engineering, special equipment or tooling, plant rearrangement, and assembly, training, or transportation of a specialized work force;

(b) There is reasonable expectation that effective competition can be obtained;

(c) There are known requirements for the supplies or services to be procured, and relatively stable production or service can be reasonably anticipated throughout the multiyear period; and

(d) The design and specifications of the item or the character of the service are expected to remain relatively stable for the multiyear period.

§ 9–4.5503 Exceptions.

Exception by reason of some overriding programmatic consideration from any limitation set forth in § 9–4.5501 or from any of the criteria set forth in § 9–4.5502 shall not be made unless approved by the Director, Division of Contracts, Headquarters.

§ 9–4.5504 Procedure to be followed in multiyear procurements.

(a) Formal advertising is the preferred method for use in multiyear procurement. Normally, the solicitations shall request bids or proposals on both the first year and the multiyear basis. The solicitations should also require that the unit price for each item in the multiyear requirement be the same for all years included therein, and that the portion of the cost of any plant and equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. If competition for future procurements of the supplies or services would be impracticable after award of a contract for the first year only, the solicitation should ask for bids only for the total multiyear requirements. Any requirements with respect to options and title to plant or equipment resulting from the policy considerations in § 9–4.5501(c) should also be set forth in the solicitation.

(b) If award is made on a multiyear basis, funds are obligated only for the first year's procurement (including any agreed-to cancellation charges), with succeeding years funded annually thereafter.

(c) Cancellation results from notification from the contracting officer (pursuant to a cancellation provision in the multiyear contract) to the contractor of nonavailability of funds for contract performance for any subsequent year or failure of the contracting officer to notify the contractor that funds have been made available for the succeeding year. A cancellation charge may be provided for where substantial startup costs or substantial contingent expenses are involved. In such cases, the contracting officer shall, for each year except the last, establish cancellation ceilings applicable to the remaining years subject to cancellation. Requirements with respect to cancellation and cancellation charges, if any, shall be set forth in the solicitation.

(d) Evaluation of offers in a multiyear procurement involves not only the determination of the lowest overall evaluated cost to the Government for both alternatives (the multiyear and the first-year alternatives), but also the comparison of the cost of buying the total requirement under a multiyear procurement with the estimated cost of buying the total requirement in successive independent procurements. All the factors to be considered for the various evaluations involved shall be set forth in the solicitation. The cancellation ceilings, if any, shall not be factors for evaluation.

(e Award shall be made to that responsible offeror whose offer, conforming to the solicitation, will be most advantageous to the Government, price and other factors considered. In no event shall award be made at an unreasonable price.

(f) Cancellation effected pursuant to the "Cancellation" clause shall not be construed to terminate the contract pursuant to the "Termination" clause. If the contract is terminated for the convenience of the Government, the Government's liability shall not exceed the amount then obligated for contract performance (including any agreed-to cancellation ceiling).

§ 9–4.5505 Special clauses for use in multiyear contracts.

All multiyear awards made under the multiyear procurement method described herein shall contain the clauses set forth in §§ 9–7.5006–57 and 9–7.5006–58 of this chapter.

Subpart 9–7.50—Use of Standard Clauses

3. The following sections are added to Subpart 9–7.50:

§ 9–7.5006–57 Limitation of price and contractor performance (multiyear contracts).

(a) Funds are obligated for performance of this contract in the amount of $_____. This obligated amount is not considered sufficient for the contract performance required by and described herein for any year other than the first year. Upon availability of additional funds sufficient for performance of the full requirement for the next succeeding year, the contracting officer shall, not later than a date agreed to by the parties, so notify the contractor in writing and the amount of funds obligated herein for contract performance shall be increased accordingly. This procedure shall apply for each successive year in which this contract is to be performed.

(b) The Government is not obligated to the contractor for contract performance in any monetary amount in excess of the amount obligated herein.

(c) The contractor shall not incur costs for the performance required for any year after the first year unless and until he has been notified in writing by the contracting officer of an increase in the obligated amount in accordance with paragraph (a) of this clause. If so notified, the contractor's performance shall be increased only to the extent required for the additional year for which funds have been obligated.

(d) In the event of termination pursuant to the clause entitled "Termination for convenience of the Government," the terms "total contract price" and "work under the contract" as used in that clause refer to the amount obligated for performance of this contract as provided in this clause plus the applicable amount, if any, established as the cancellation ceiling, and to the work under the year for which funds have been obligated. In the event of termination for default, the Government's rights under this contract shall apply to the entire multiyear requirements.

(e) Notification to the contractor of an increase or decrease in the funds obligated for performance of this contract as a result of a clause other than this clause shall not constitute the notification contemplated by paragraph (a) of this clause.

§ 9–7.5006–58 Cancellation (multiyear contracts).

(a) As used herein, the term "cancellation" means that the Government is canceling, pursuant to this clause, its requirements as set forth in this contract for all years subsequent to that in which notice of cancellation is provided. Such cancellation shall occur only if, by the date or within the time period specified in this contract, or such further time as may be agreed to, the contracting officer (1) notifies the contractor that funds will not be available for contract performance for any subsequent year; or (2) fails to notify the contractor that funds have been made available for performance of the requirement for the succeeding year.

(b) Except for cancellation pursuant to this clause or for termination pursuant to the clause entitled "Default," any reduction by the contracting officer in the work called for under this contract shall be considered a termination in accordance with the clause entitled "Termination for convenience of the Government." Cancellation pursuant to this clause shall not be construed a termination in accordance with the clause entitled "Termination for convenience of the Government."

(c) In the event of cancellation pursuant to this clause, the contractor shall not, as consideration therefor, be entitled to any cancellation charge (NOTE A).

NOTE A: In the event that cancellation charges are appropriate in a particular multiyear award, the following should be substituted for paragraph (c) above:

"(c) In the event of cancellation pursuant to this clause, the contractor shall be paid, as consideration therefor, a cancellation charge not to exceed the cancellation ceiling described and separately set forth in this contract as being applicable at the time of cancellation.

"(d) The cancellation charge is intended to cover only expenses reasonably necessary for performance which would have been recovered over the multiyear period, but which, because of the cancellation, are therefore not so recovered. The cancellation charge shall be computed and claim therefor made as would be applicable under the clause entitled 'Termination for convenience of the Government,' except that the cancellation charge shall not include any amount for:

"(1) Labor, materials, or other expenses incurred for performance of the canceled work: *Provided*, That initial costs, preparatory expenses and other nonrecurring costs reasonably and necessarily incurred by the contractor and its subcontractors, but exclusive of any costs allocable to the completed work paid or to be paid for, may be included in such charge; and

"(2) Which payment has already been made to the contractor; or

"(3) Anticipated profit on the canceled items, or on the costs included in the cancellation charge."

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER.

Dated at Germantown, Md., this 20th day of October 1967.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director,
Division of Contracts.

[F.R. Doc. 67–12714; Filed, Oct. 27, 1967; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission and Department of Transportation

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 997]

PART 195—CAR SERVICE

Louisville and Nashville Railroad Co. Authorized To Operate Over Trackage of Seaboard Coast Line Railroad

At a session of the Interstate Commerce Commission, Division 3, acting as an Appellate Division, held at its office in Washington, D.C., on the 23d day of October 1967.

Upon consideration of the record in the above-entitled matter, of the petition of the Louisville and Nashville Railroad Co. (L&N) for reconsideration of the denial on October 11, 1967, of its request for a service order as specifically described in the request dated October 2, 1967; and

It appearing, that because L&N track along the Coosa River near the site of Lay Dam in Coosa, Shelby, and Talladega Counties, Ala., will be inundated on or about December 15, 1967, by virtue of a power dam project being accomplished in compliance with Public Law 436 and License No. 2146 from the Federal Power Commission, and L&N will thereby be rendered unable to operate over such tracks; that the Commission is of the opinion that there is a need for continued rail service to shippers located in the affected area; that operation by L&N over the trackage of Seaboard Coast Line Railroad between Talladega and Parkwood, Ala., would best enable L&N to provide said service in the interest of the public and the commerce of the people pending final disposition, after public hearing in Finance Docket No. 24530, Louisville & Nashville Railroad Co.—Trackage Rights—Atlantic Coast Line Railroad Co., and Finance Docket No. 24531, Louisville & Nashville Railroad Co. Abandonment in Shelby and Talladega Counties, Ala., of issues regarding the kind of service L&N should be required to provide in the said area on a permanent basis; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 195.997 Service Order No. 997.

(a) *Louisville and Nashville Railroad Co. authorized to operate over trackage of Seaboard Coast Line Railroad.* The Louisville and Nashville Railroad Co. be, and it is hereby authorized to operate over trackage of the Seaboard Coast Line Railroad between Talladega and Parkwood, Ala.

(b) *Application.* The provisions of this order shall apply to intrastate and foreign traffic as well as to interstate traffic.

(c) *Rules and regulations suspended.* The operation of all rules and regulations insofar as they conflict with the provisions of this order is hereby suspended.

(d) *Effective date.* This order shall become effective at 12:01 a.m., October 23, 1967.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1968, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general

public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3, acting as an Appellate Division.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 67-12732; Filed, Oct. 27, 1967; 8:46 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Ridgefield National Wildlife Refuge, Wash.

In F.R. Doc. 67-12211, filed October 16, 1967, appearing on page 14328 of the issue for Tuesday, October 17, 1967, subparagraph (1), under special conditions, the second and third sentences, reading "shooting hours will be from opening shooting time each day until 4 p.m. Hunters must be out of the hunting area by 5 p.m." are deleted.

CLAY E. CRAWFORD, *Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

OCTOBER 23, 1967.

[F.R. Doc. 67-12718; Filed, Oct. 27, 1967; 8:45 a.m.]

PART 32—HUNTING

PART 33—SPORT FISHING

Certain Wildlife Refuges in New Mexico and Texas

On page 14063 of the FEDERAL REGISTER of October 10, 1967, there was published a notice of a proposed amendment to 50 CFR 32.21 and 33.4. The purpose of this amendment is to provide public hunting of upland game and sport fishing on certain areas of the National Wildlife Refuge System, as legislatively permitted.

Interested persons were given 15 days in which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received. The proposed amendment is hereby adopted without change.

Since this amendment benefits the public by relieving existing restrictions on hunting and fishing, it shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 10, 45 Stat. 1224, 16 U.S.C. 715i; sec. 4, 80 Stat. 927, 16 U.S.C 668dd)

1. Section 32.21 is amended by the following addition:

§ 32.21 List of open areas; upland game.

* * * * *

NEW MEXICO

Bosque del Apache National Wildlife Refuge.

* * * * *

2. Section 33.4 is amended by the following addition:

§ 33.4 List of open areas; sport fishing.

* * * * *

TEXAS

Brazoria National Wildlife Refuge.

* * * * *

JOHN S. GOTTSCHALK, *Director, Bureau of Sport Fisheries and Wildlife.*

OCTOBER 26, 1967.

[F.R. Doc. 67-12779; Filed, Oct. 27, 1967; 8:51 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 14, 16, 17, 53]

ANTIDUMPING

Procedures Under Antidumping Act, 1921

Notice is hereby given that it is proposed to amend the Customs Regulations relating to procedures under the Antidumping Act, 1921 (19 CFR 14.6—14.13, 16.21, 16.22, 17.9).

The primary purpose of the proposed amendments is to conform the antidumping regulations to the provisions of an International Anti-Dumping Code which was adopted June 30, 1967, as An Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, and which interprets the provisions of Article VI of the General Agreement and elaborates rules for their application. Article 13 of the International Anti-Dumping Code provides that it shall enter into force July 1, 1968. A copy of the Agreement is annexed to this notice.

The principal changes for this purpose are:

In order to comply with Articles 5(a) and 10(a) of the Code evidence of injury would be required from persons furnishing information in dumping cases (proposed §§ 53.25–53.27). Antidumping Proceeding and Withholding of Appraisement Notices would state that there is evidence of injury on record (§§ 53.30 and 53.34).

In accordance with Article 6(e) and (i) a new provision would state that if an adequate investigation is not permitted by a foreign country or if any necessary information is withheld, the Secretary will reach a determination on whatever facts are available (§ 53.31).

To conform to Articles 5(b) and 10(d), the procedures of § 14.6 (d) and (e) would be revised. Provisions are included for withholding of appraisement limited to three months (§ 53.34(a)), or whenever a longer period is requested by the importer and the exporter, 6 months (§ 53.34(b)).

To conform to Article 5(b), the procedures of § 14.8 also would be changed. If the determination is affirmative accelerated procedures are provided: In the ordinary case the matter would be forwarded to the U.S. Tariff Commission without an advance Notice of Tentative Determination. If the exporter and importer have requested a period of withholding of appraisement longer than 3 months, the case would be referred to the Tariff Commission within three months from the publication of the Withholding of Appraisement Notice (§ 53.37).

A new Revocation of Determination procedure is provided in § 53.39 of the proposed amendments.

If it appears that the Secretary's determination will be negative a "Notice of Tentative Negative Determination" would be issued (§ 53.33(a)).

Other changes in the regulations would amend existing provisions or add new provisions to the antidumping regulations to reflect current Treasury Department interpretation or practice. Examples of this type of change are:

(1) A proposal to amend the language now in § 14.6(d)(1), referring to the receipt by the Commissioner of Customs of information "in proper form," to state "in a form acceptable to the Commissioner." (§ 53.29).

(2) The rule that is applied administratively to determine, in connection with present § 14.7(a)(2), that sales in the home market of the country of exportation are inadequate as a basis for comparison would be added (§ 53.4(b)).

(3) A new paragraph would be added to the provision concerning Fair Value based on Constructed Value (present § 14.7(a)(3)), to define the usual rule for the determination of fair value of merchandise from countries having a controlled economy (§ 53.5(b)).

(4) A new provision (§ 53.52(b)) would include a reference to the statement which is required of importers concerning any reimbursement of the special dumping duty.

Reorganization Plan No. 1 of 1965 (3 CFR 1965 Supp.) authorized the reorganization of the Customs Service. That Plan abolished the offices of appraiser of merchandise and collector of customs. Throughout the proposed amendments references to these officers and to certain functions performed by them would be deleted or changed to conform to practice under the reorganization.

To effect these changes it is proposed to amend the Customs Regulations by adding a new Part 53 "Antidumping," which would supersede §§ 14.6 through 14.13, 16.21, 16.22, and 17.9 of the regulations as follows:

PART 14—APPRAISEMENT

§§ 14.6–14.13 [Deleted]

1. Part 14 is amended by deleting therefrom §§ 14.6 through 14.13, entitled "Procedure Under Antidumping Act" and footnotes 14 and 15 thereto.

PART 16—LIQUIDATION OF DUTIES

§§ 16.21, 16.22 [Deleted]

2. Part 16 is amended by deleting therefrom §§ 16.21 and 16.22 and footnote 16.

PART 17—PROTESTS AND REAPPRAISEMENTS

§ 17.9 [Deleted]

3. Part 17 is amended by deleting therefrom § 17.9 and footnote 10 thereto.

PART 53—ANTIDUMPING

4. A new Part 53, entitled "Antidumping," is added to read as follows:

Sec.

53.1 Scope.

Subpart A—Fair Value

53.2 Fair value; definition.
53.3 Fair value based on price in country of exportation; the usual test.
53.4 Fair value based on sales for exportation to countries other than the United States.
53.5 Fair value based on constructed value.
53.6 Calculation of fair value.
53.7 Fair value; differences in quantities.
53.8 Fair value; circumstances of sale.
53.9 Fair value; similar merchandise.
53.10 Fair value; offering price.
53.11 Fair value; sales agency.
53.12 Fair value; fictitious sales.
53.13 Fair value; sales at varying prices.
53.14 Fair value; quantities involved and differences in price.
53.15 Fair value; revision of prices or other changed circumstances.
53.16 Fair value; shipments from intermediate country.

Subpart B—Availability of Information

53.23 Availability of information in antidumping proceedings.

Subpart C—Procedure Under Antidumping Act, 1921

53.25 Suspected dumping; information from customs officer.
53.26 Suspected dumping; information from persons outside Customs Service.
53.27 Suspected dumping; nature of information to be made available.
53.28 Adequacy of information.
53.29 Initiation of antidumping proceeding; summary investigation.
53.30 Antidumping Proceeding Notice.
53.31 Full scale investigation.
53.32 Determination as to fact or likelihood of sales at less than fair value.
53.33 Negative determination.
53.34 Withholding or appraisement.
53.35 Affirmative determination; appraisement withheld not more than 3 months.
53.36 Affirmative determination; appraisement withheld not more than 6 months.
53.37 Referral to U.S. Tariff Commission.
53.38 Affirmative determination; opportunity to present views.
53.39 Revocation of determination of sales at less than fair value; determination of sales at not less than fair value.
53.40 Dumping finding.
53.41 Modification or revocation of findings.
53.42 Publication of determinations and findings.
53.43 List of current findings.

Subpart D—Action by District Director of Customs

Subpart E—Antidumping Appeals and Protests

AUTHORITY: The provisions of this Part 53 issued under secs. 201–213, 407, 42 Stat. 11, as amended, 18; 5 U.S.C. 301, 19 U.S.C. 160–171, 173. International Anti-Dumping Code, June 30, 1967, 32 F.R. _____. Other authorities are cited to text in parentheses.

§ 53.1 Scope.

This part sets forth procedures and rules applicable to proceedings under the Antidumping Act, 1921, as amended (Appendix "A"), and the International Anti-Dumping Code (Appendix "B"), the assessment of the special dumping duty, appeals for reappraisement, applications for review of reappraisements, and protests relating to matters under the Antidumping Act, 1921, as amended.

Subpart A—Fair Value

§ 53.2 Fair value; definition.

For the purposes of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), the fair value of the imported merchandise shall be determined in accordance with §§ 53.3 to 53.5.

§ 53.3 Fair value based on price in country of exportation; the usual test.

(a) *General.* Merchandise imported into the United States will ordinarily be considered to have been sold, or to be likely to be sold, at less than fair value if the purchase price or exporter's sales price (as defined in sections 203 and 204, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is, or is likely to be, less than the price (as defined in section 205, after adjustment as provided for in section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 164, 161)), at which such or similar merchandise (as defined in section 212(3) of the Antidumping Act, 1921, as amended (19 U.S.C. 170a(3))) is sold for consumption in the country of exportation on or about the date of purchase or agreement to purchase of the merchandise imported into the United States if purchase price applies, or on or about the date of exportation thereof if exporter's sales price applies.

(b) *Restricted sales.* When home market sales form the appropriate basis of comparison, they will be used for this purpose whether or not they are restricted. If there should be restrictions which affect the value of the merchandise, appropriate adjustment of the home market price will be made.

§ 53.4 Fair value based on sales for exportation to countries other than the United States.

(a) *General.* If it is demonstrated that during a representative period the quantity of such or similar merchandise sold for consumption in the country of exportation is so small, in relation to the quantity sold for exportation to countries other than the United States, as to be an inadequate basis for comparison, then merchandise imported into the United States will ordinarily be deemed to have been sold, or to be likely to be sold, at less than fair value if the purchase price or the exporter's sales price (as defined in sections 203 and 204, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162, 163)), as the case may be, is, or is likely to be, less than the price (as defined in section 205, after adjustment as provided for in section 202 of the Antidumping Act, 1921, as amended (19 U.S.C. 164, 161)), at which such or similar merchandise (as defined in section 212(3) of the Antidumping Act, 1921, as amended (19 U.S.C. 170a(3))) is sold for exportation to countries other than the United States on or about the date of purchase or agreement to purchase of the merchandise imported into the United States if purchase price applies, or on or about the date of exportation thereof if exporter's sales price applies.

(b) *Twenty-five percent rule.* Generally, the quantity of such or similar merchandise sold for consumption in the country of exportation will be considered to be an inadequate basis for comparison if it is less than 25 percent of the quantity sold other than for exportation to the United States.

(c) *Restricted sales.* When third country sales form the appropriate basis of comparison, they will be used for this purpose whether or not they are restricted. If there should be restrictions which affect the value of the merchandise, appropriate adjustment of the third country price will be made.

§ 53.5 Fair value based on constructed value.

(a) *General.* If the information available is deemed by the Secretary insufficient or inadequate for a determination under § 53.3 or § 53.4, he will determine fair value on the basis of the constructed value as defined in section 206 of the Antidumping Act, 1921, as amended (19 U.S.C. 165).

(b) *Merchandise from controlled economy country.* Ordinarily, if the information available indicates that the economy of the country from which the merchandise is exported is controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of fair value under § 53.3 or § 53.4, the Secretary will determine fair value on the basis of the constructed value of the merchandise determined on the normal costs, expenses, and profits as reflected by the prices at which such or similar merchandise is sold by a nonstate-controlled-economy country either (1) for consumption in its own market; or (2) other countries, including the United States.

§ 53.6 Calculation of fair value.

In calculating fair value under section 201(a), Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), the criteria in §§ 53.7 through 53.17 shall apply.

§ 53.7 Fair value; differences in quantities.

(a) *General.* In comparing the purchase price or exporter's sales price, as the case may be, with such applicable criteria as sales or offers, on which a determination of fair value is to be based, reasonable allowances will be made for differences in quantities if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. In determining the question of allowances for differences in quantity, consideration will be given, among other things, to the practice of the industry in the country of exportation with respect to affording in the home market (or third country markets, where sales to third countries are the basis for comparison) discounts for quantity sales which are freely available to those who purchase in the ordinary course of trade.

(b) *Criteria for allowances.* Allowances for price discounts based on sales in large quantities ordinarily will not be made unless:

(1) *Six-month rule.* The exporter during the 6 months prior to the date when the question of dumping was raised or presented (or during such other period as investigation shows is more representative) had been granting quantity discounts of at least the same magnitude with respect to 20 percent or more of such or similar merchandise which he sold in the home market (or in third country markets when sales to third countries are the basis for comparison) and that such discounts had been freely available to all purchasers, or

(2) *Cost justification.* The exporter can demonstrate that the discounts are warranted on the basis of savings specifically attributable to the quantities involved.

(c) *Price lists.* In determining whether a discount has been given, the presence or absence of a publishd price list reflecting such a discount is not controlling. In certain lines of trade, price lists are not commonly published and in others although commonly published they are not commonly adhered to.

§ 53.8 Fair value; circumstances of sale.

(a) *General.* In comparing the purchase price or exporter's sales price, as the case may be, with the sales, or other criteria applicable, on which a determination of fair value is to be based, reasonable allowances will be made for bona fide differences in circumstances of sale if it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due

to such differences. Differences in circumstances of sale for which such allowances will be made are limited, in general, to those circumstances which bear a reasonably direct relationship to the sales which are under consideration.

(b) *Examples.* Examples of differences in circumstances of sale for which reasonable allowances generally will be made are those involving differences in credit terms, guarantees, warranties, technical assistance, servicing, and assumption by a seller of a purchaser's advertising or other selling costs. Reasonable allowances will also generally be made for differences in commissions. Except in those instances where it is clearly established that the differences in circumstances of sale bear a reasonably direct relationship to the sales which are under consideration, allowances generally will not be made for differences in research and development costs, production costs, and advertising and other selling costs of a seller unless such costs are attributable to a later sale of merchandise by a purchaser: *Provided,* That reasonable allowances for selling expenses generally will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual selling expense incurred in the one market or the total amount of the commission allowed in such other market, whichever is less.

(c) *Relation to market value.* In determining the amount of the reasonable allowances for any differences in circumstances of sale, the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise but, where appropriate, may also consider the cost of such differences to the seller, as contributing to an estimate of market value.

§ 53.9 Fair value; similar merchandise.

In comparing the purchase price or exporter's sales price, as the case may be, with the selling price in the home market, or for exportation to countries other than the United States, in the case of similar merchandise described in subdivisions (C), (D), (E), or (F) of section 212(3), Antidumping Act, 1921, as amended (19 U.S.C. 170a(3)), due allowance shall be made for differences in the merchandise. In this regard the Secretary will be guided primarily by the effect of such differences upon the market value of the merchandise but, when appropriate, he may also consider differences in cost of manufacture if it is established to his satisfaction that the amount of any price differential is wholly or partly due to such differences.

§ 53.10 Fair value; offering price.

In the determination of fair value, offers will be considered in the absence of sales, but an offer made in circumstances in which acceptance is not reasonably to be expected will not be deemed to be an offer.

§ 53.11 Fair value; sales agency.

If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207 of the Antidumping Act, 1921, as amended (19 U.S.C. 166), the price at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in the determination of fair value.

§ 53.12 Fair value; fictitious sales.

In the determination of fair value, no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account.

§ 53.13 Fair value; sales at varying prices.

Where the prices in the sales which are being examined for a determination of fair value vary (after allowances provided for in §§ 53.7, 53.8, and 53.9), determination of fair value will take into account the prices of a preponderance of the merchandise thus sold or weighted averages of the prices of the merchandise thus sold. Unless there is a clear preponderance of merchandise sold at the same price, weighted averages of the prices of the merchandise sold normally will be used.

§ 53.14 Fair value; quantities involved and differences in price.

Merchandise will not be deemed to have been sold at less than fair value unless the quantity involved in the sale or sales to the United States, or the difference between the purchase price or exporter's sales price, as the case may be, and the fair value, is more than insignificant.

§ 53.15 Fair value; revision of prices or other changed circumstances.

(a) *Discontinuance of investigation.* Whenever the Secretary of the Treasury is satisfied during the course of an antidumping investigation that either—

(1) Price revisions have been made which eliminate the likelihood of sales at less than fair value and that there is no likelihood of resumption of the prices which prevailed before such revision; or

(2) Sales to the United States of the merchandise have terminated and will not be resumed;

or whenever the Secretary concludes that there are other changed circumstances on the basis of which it may no longer be appropriate to continue an antidumping investigation, the Secretary shall publish a notice to this effect in the FEDERAL REGISTER.

(b) *Notice.* The notice shall state the facts relied on by the Secretary in publishing the notice and that those facts are considered to be evidence that there are not and are not likely to be sales at less than fair value. The notice shall also state that unless persuasive evidence or argument to the contrary is presented within 30 days the Secretary will determine that there are not and are not likely to be sales at less than fair value. The acceptance of assurances to revise prices or the termination of sales at a dumping price will not prevent the Secretary from making a determination of sales at less than fair value in any case where he considers such action appropriate.

§ 53.16 Fair value; shipments from intermediate country.

If the merchandise is not imported directly from the country of origin, but is shipped to the United States from another country, the price at which such or similar merchandise is sold in the country of origin will be used in the determination of fair value if the merchandise was merely transshipped through the country of shipment.

Subpart B—Availability of Information

(For Bureau of Customs general provisions relating to availability of information see Part 26 of this chapter.)

§ 53.23 Availability of information in antidumping proceedings.

(a) *Information generally available.* In general, all information but not necessarily all documents, obtained by the Treasury Department, including the Bureau of Customs, in connection with any antidumping proceeding will be available for inspection or copying by any person. With respect to documents prepared by an officer or employee of the United States, factual material, as distinguished from recommendations and evaluations, contained in any such document will be made available by summary or otherwise on the same basis as information contained in other documents. Attention is directed to § 24.12 of this chapter relating to fees charged for providing copies of documents.

(b) *Requests for confidential treatment of information.* Any person who submits information in connection with an antidumping proceeding may request that such information, or any specified part thereof, be held confidential. Information covered by such a request shall be set forth on separate pages from other information; and all such pages shall be clearly marked "Confidential Treatment Requested." The Commissioner of Customs or the Secretary of the Treasury or the delegate of either will determine, pursuant to paragraph (c) of this section, whether such information, or any part thereof, shall be treated as confidential. If it is so determined, the information covered by the determination will not be made available for inspection or copying by any person other than an officer or employee of the U.S. Government or a person who has been specifically authorized to receive it by the person requesting confidential treatment. If it is determined that information submitted with such a request, or any part thereof, should not be treated as confidential, or that summarized or approximated presentations thereof should be made available for disclosure, the person who has requested confidential treatment

thereof shall be promptly so advised and, unless he thereafter agrees that the information, or any specified part or summary or approximated presentations thereof, may be disclosed to all interested parties, the information will not be made available for disclosure, but to the extent that it is self-serving it will be disregarded for the purpose of the determination as to sales at less than fair value and no reliance shall be placed thereon in this connection.

(c) *Standards for determining whether information will be regarded as confidential*—(1) *General.* Information will ordinarily be considered to be confidential only if its disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information. Further, if disclosure of information in specific terms or with identifying details would be inappropriate under this standard, the information will ordinarily be considered appropriate for disclosure in generalized, summary or approximated form, without identifying details, unless the Commissioner of Customs or the Secretary of the Treasury or the delegate of either determines that even in such generalized, summary or approximated form, such disclosure would still be of significant competitive advantage to a competitor or would still have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information. As indicated in paragraph (b) of this section, however, the decision that information is not entitled to protection from disclosure in its original or in another form will not lead to its disclosure unless the person supplying it consents to such disclosure.

(2) *Information ordinarily regarded as appropriate for disclosure.* Information will ordinarily be regarded as appropriate for disclosure if it

(i) Relates to price information;

(ii) Relates to claimed freely available price allowances for quantity purchases; or

(iii) Relates to claimed differences in circumstances of sale.

(3) *Information ordinarily regarded as confidential.* Information will ordinarily be regarded as confidential if its disclosure would

(i) Disclose business or trade secrets;

(ii) Disclose production costs;

(iii) Disclose distribution costs, except to the extent that such costs are accepted as justifying allowances for quantity or differences in circumstances of sale;

(iv) Disclose the names of particular customers or the price or prices at which particular sales were made.

(5 U.S.C. 552)

Subpart C—Procedure Under Antidumping Act, 1921

§ 53.25 Suspected dumping; information from customs officer.

If any district director of customs has knowledge of any grounds for a reason to believe or suspect that any merchandise is being, or is likely to be, imported into the United States at a purchase price or exporter's sales price less than the foreign market value (or, in the absence of such value, than the constructed value), as contemplated by section 201 (b) Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), or at less than its "fair value" as that term is defined in § 53.2, he shall communicate his belief or suspicion promptly to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in § 53.27, if the district director has such information or if it is readily available to him.

§ 53.26 Suspected dumping; information from persons outside Customs Service.

Any person outside the Customs Service who has information that merchandise is being, or is likely to be, imported into the United States under such circumstances as to bring it within the purview of the Antidumping Act, 1921, as amended, may communicate such information in writing to the Commissioner of Customs.

§ 53.27 Suspected dumping; nature of information to be made available.

Communications to the Commissioner pursuant to § 53.26, regarding suspected dumping should, to the extent feasible, contain or be accompanied by the following:

(a) A detailed description or sample of the merchandise; if no sample is furnished, the Bureau of Customs may call upon the person who furnished the information to furnish samples of the imported and competitive domestic articles, or either:

(b) The name of the country from which it is being, or is likely to be, imported;

(c) The name of the exporter or exporters and producer or producers, if known;

(d) The ports or probable ports of importation into the United States;

(e) Information indicating that an industry of the United States is being injured, or is likely to be injured, or prevented from being established;

(f) Such detailed data as are available with respect to values and prices indicating that such merchandise is being, or is likely to be, sold in the United States at less than its fair value, within the meaning of the Antidumping Act, 1921, as amended, including information as to any differences between the foreign market value or constructed value and the purchase price or exporter's sales price which may be accounted for by any difference in taxes, discounts, incidental costs such as those for packing or freight, or other items.

(g) Such material as is available indicating the market price for similar merchandise in the country of exportation and in any third countries in which merchandise of the producer complained of is known to be sold.

(h) Such information as is available as to sales made for consumption in the country of exportation or for exportation otherwise than to the United States over a significant period of time prior to the date upon which the information is furnished.

(i) Such suggestions as the person furnishing the information may have as to specific avenues of investigation to be pursued or questions to be asked in seeking pertinent information.

§ 53.28 Adequacy of information.

If any information filed pursuant to § 53.26 in the opinion of the Commissioner does not conform substantially with the requirements of § 53.27, the Commissioner shall return the communication to the person who submitted it with detailed written advice as to the respects in which it does not conform.

§ 53.29 Initiation of antidumping proceeding; summary investigation.

Upon receipt of information pursuant to § 53.25 or § 53.26 in a form acceptable to the Commissioner, the Commissioner shall conduct a summary investigation. If he determines that the information is patently in error or that merchandise of the class or kind is not being and is not likely to be imported in more than insignificant quantities he shall so advise the person who submitted the information and the case shall be closed.

§ 53.30 Antidumping Proceeding Notice.

If the case has not been closed under § 53.29, the Commissioner shall publish a notice in the FEDERAL REGISTER that information in an acceptable form has been received pursuant to § 53.25 or § 53.26. This notice, which may be referred to as the "Antidumping Proceeding Notice," will specify—

(a) Whether the information relates to all shipments of the merchandise in question from an exporting country, or only to shipments by certain persons or firms; in the latter case, the names of such persons and firms will be specified.

(b) The date on which information in an acceptable form was received and that date shall be the date on which the question of dumping was raised or presented for purposes of sections 201(b) and 202(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b) and 161(a)).

(c) A summary of the information received. If a person outside the Customs Service raised or presented the question of dumping, his name shall be included in the notice unless a determination under § 53.23 requires that his name not be disclosed.

§ 53.31 Full scale investigation.

(a) *Initiation of investigation.* The Commissioner shall thereupon proceed, by a full-scale investigation, or otherwise, to obtain such additional information, if any, as may be necessary to enable the Secretary to reach a determination as provided by § 53.32. In order to verify the information presented, or to obtain further details, investigations will, where appropriate, be conducted by Customs Representatives in foreign countries, unless the country concerned objects to

the investigation. If an adequate investigation is not permitted, or if any necessary information is withheld, the Secretary will reach a determination on the basis of such facts as are available to him.

(b) *Termination of investigation.* If at any time during an investigation the Commissioner determines that further investigation is not warranted by the facts of the case, he may recommend to the Secretary that the case be closed by a determination of no sales at less than fair value.

§ 53.32 Determination as to fact or likelihood of sales at less than fair value.

(a) *Fair value determination.* Upon receipt from the Commissioner of Customs of the information referred to in § 53.31, the Secretary of the Treasury will proceed as promptly as possible to determine whether or not the merchandise in question is in fact being, or is likely to be, sold in the United States or elsewhere at less than its fair value.

(b) *Submission of views.* During the course of an antidumping proceeding interested persons may make such written submissions as they desire. Appropriate consideration will be given to any new or additional information submitted. The Secretary or his delegate also may at any time, invite any person or persons to supply him orally with information or argument.

§ 53.33 Negative determination.

(a) *Notice of Tentative Negative Determination.* If it appears to the Secretary that on the basis of information before him a determination of sales at not less than fair value may be required, he will publish in the FEDERAL REGISTER a "Notice of Tentative Negative Determination," which will include a statement of the reasons upon which the tentative determination is based.

(b) *Opportunity to present views*—(1) *Written.* Interested persons may make such written submissions as they desire, within a period which will be specified in the notice, with respect to the contemplated action. Appropriate consideration will be given to any new or additional information or argument submitted.

(2) *Oral.* If any person believes that any information obtained by the Bureau of Customs in the course of the antidumping proceeding is inaccurate or that for any other reason the tentative determination is in error, he may request in writing that the Secretary of the Treasury afford him an opportunity to present his views in this regard. Upon receipt of such a request, the Secretary will notify the person who supplied any information, the accuracy of which is questioned and such other person or persons, if any, as he in his discretion may deem to be appropriate. If the Secretary is satisfied that the circumstances so warrant, an opportunity will be afforded by the Secretary or his delegate for all such persons to appear, through their counsel or in person, accompanied by counsel if they so desire, to make known their respective points of view and to supply such further information or argument as may be of assistance in leading to a conclusion as to the accuracy of the information in question. The Secretary or his delegate may at any time invite any person or persons to supply him orally with information or argument.

(c) *Final determination.* As soon as possible thereafter, the Secretary will make a final determination and publish his determination in the FEDERAL REGISTER.

§ 53.34 Withholding of appraisement.

(a) *Three-month period.* If the Commissioner determines during the course of his investigations that there are reasonable grounds to believe or suspect that any merchandise is being, or is likely to be, sold at less than its foreign market value (or, in the absence of such value, than its constructed value) under the Antidumping Act, and if there is evidence on record concerning injury or likelihood of injury to or prevention of establishment of an industry of the United States, he shall publish notice of these facts in the FEDERAL REGISTER in a "Withholding of Appraisement Notice," indicating

(1) That the belief or suspicion relates only to certain shippers or producers, if this is the case and that the investigation is limited to the transactions of such shippers or producers,

(2) The expiration date of the notice (which shall be no more than 3 months from the date of publication of the notice in the FEDERAL REGISTER, unless a longer period of withholding of appraisement has been requested by the importer and the exporter-pursuant to paragraph (b) of this section and has been approved by the Commissioner).

This withholding of appraisement notice will be issued concurrently with the Secretary's determination pursuant to § 53.35, unless appraisement is being withheld pursuant to paragraph (b) of this section.

(b) *Six-month period.* At any time prior to the issuance of the withholding of appraisement notice referred to in paragraph (a) of this section, the importers and exporters may request that the period of withholding of appraisement extend for a period longer than 3 months, but in no case longer than 6 months. Upon the receipt of such a request from all the importers and exporters, the Commissioner will decide whether appraisement should be withheld for a period longer than 3 months. If the Commissioner decides that a period of withholding of appraisement longer than 3 months is justified, he will publish a withholding of appraisement notice upon the same basis and containing information of the same type as is required by paragraph (a) of this section, except that the expiration date of the notice may be 6 months from the date of publication of the notice in the FEDERAL REGISTER.

(c) *Advice to District Directors of Customs.* The Commissioner shall advise all district directors of customs of his action. Upon receipt of such advice the district director of customs shall proceed to withhold appraisement in accordance with the pertinent provisions of § 53.48.

§ 53.35 Affirmative determination; appraisement withheld not more than 3 months.

If it appears to the Secretary on the basis of the information before him that a determination of sales at less than fair value is required, he will publish in the FEDERAL REGISTER his Determination of Sales at Less Than Fair Value. This determination will include—

(a) An adequate description of the merchandise;

(b) The name of each country of exportation;

(c) The date of the receipt of the information in an acceptable form;

(d) Whether the appropriate basis of comparison is purchase price or exporter's sales price; and

(e) A statement of reasons upon which the determination is based.

§ 53.36 Affirmative determination; appraisement withheld not more than 6 months.

If it appears to the Secretary on the basis of the information before him that a determination of sales at less than fair value is required, and if a withholding of appraisement notice has been issued pursuant to § 53.34(b), the Secretary will publish in the FEDERAL REGISTER his Determination of Sales at Less Than Fair Value within 3 months from the date of publication of such withholding of appraisement notice. This determination will contain information of the same type as required in § 53.35 (a) through (e).

§ 53.37 Referral to U.S. Tariff Commission.

Whenever the Secretary makes a determination of sales at less than fair value he shall so advise the U.S. Tariff Commission.

§ 53.38 Affirmative determination; opportunity to present views.

As soon as possible after the publication of the Secretary's determination of sales at less than fair value under § 53.35 or § 53.36 if any person believes that for any reason the Secretary's determination is in error, and should be revoked, or modified he may request that the Secretary of the Treasury afford him an opportunity to present his views in this regard. Upon receipt of such a request the Secretary will notify each person who supplied any information, the accuracy of which is questioned and such other person or persons, if any, as he may deem to be appropriate. If the Secretary is satisfied that the circumstances so warrant, an opportunity will be afforded by the Secretary or his delegate for all interested persons to appear, through their counsel or in person, accompanied by counsel if they so desire, to make known their respective points of view and to

supply such further information or argument as may be of assistance in a consideration of the Secretary's determination. Unless for unusual reasons it is clearly impracticable, such meeting will be held within three weeks of the date of the publication of the Secretary's determination. Reasonable notice of the meeting will be given.

§ 53.39 Revocation of determination of sales at less than fair value; determination of sales at not less than fair value.

If the Secretary is pursuaded from information submitted or arguments received that his determination of sales at less than fair value was in error, and if the Tariff Commission has not yet issued a determination relating to injury, the Secretary will publish a notice of "Revocation of Determination of Sales at Less Than Fair Value; Determination of Sales at Not Less Than Fair Value," or, if appropriate, a notice of "Modification of Determination of Sales at Less Than Fair Value," which notice will state the reasons upon which it was based. He shall notify the Tariff Commission of his action.

§ 53.40 Dumping finding.

If the Tariff Commission determines that there is, or is likely to be, the injury contemplated by the statute, the Secretary of the Treasury will make the finding contemplated by section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), with respect to the involved merchandise.

§ 53.41 Modification or revocation of finding.

(a) *Application to modify or revoke.* An application for the modification or revocation of any finding made as provided for in § 53.40 may be submitted in writing to the Commissioner of Customs, together with detailed information concerning any change in circumstances or practice which has obtained for a substantial period of time, or other reasons, which the applicant believes will establish that the basis for the finding no longer exists with respect to all or any part of the merchandise covered thereby.

(b) *Modification or revocation by Secretary.* The Secretary of the Treasury may on his own initiative modify or revoke a finding of dumping.

(c) *Notice of modification or revocation of finding.* Notice of intent to modify or revoke a finding will be published by the Secretary in the FEDERAL REGISTER. Comments from interested parties will be given consideration if they are received within the period of time stated in the notice.

§ 53.42 Publication of determinations and findings.

Each determination made in accordance with §§ 53.33, 53.35, and 53.36, whether such determination is in the affirmative or in the negative, and each finding made in accordance with § 53.40, will be published in the FEDERAL REGISTER, together with a statement of the reasons therefor.

§ 53.43 List of current findings.

The following findings of dumping are currently in effect:

[The list of current findings in effect as of the date of publication of these regulations in final form will be inserted in the Treasury Decision.]

Subpart D—Action by District Director of Customs

§ 53.48 Action by the District Director of Customs.

(a) *Appraisement withheld; notice to importer.* Upon receipt of advice from the Commissioner of Customs pursuant to § 53.34, the district director of customs shall withhold appraisement as to such merchandise entered, or withdrawn from warehouse, for consumption, after the date of publication of the "Withholding of Appraisement Notice." Each district director of customs shall notify the importer, consignee, or agent immediately of each lot of merchandise with respect to which appraisement is so withheld. Such notice shall indicate (1) the rate of duty of the merchandise under the applicable item of the Tariff Schedules of the United States if known, and (2) the estimated margin of the special dumping duty that could be assessed. Upon advice of a finding made in accordance with § 53.40, the district director of customs shall give immediate notice thereof to the importer when any shipment subject thereto is imported after the date of the finding and information is not on hand for completion of appraisement of such shipment.

(b) *Request to proceed with appraisement.* If, before a finding of dumping has been made, or before a case has been closed without a finding of dumping, the district director of customs is satisfied by information furnished by the importer or otherwise that the purchase price or exporter's sales price, in respect of any shipment, is not less than foreign market value (or, in the absence of such value, than the constructed value), he shall so advise the Commissioner and request authorization to proceed with his appraisement of that shipment in the usual manner.

§ 53.49 Certificate of importer.

If a finding of dumping has been made, the district director of customs shall require the importer or his agent to file a certificate of the importer on the appropriate one of the following forms. A separate certificate shall be required for each shipment.

Form 1:

NONEXPORTER'S CERTIFICATE—ANTIDUMPING ACT, 1921

Port of _____
Date _____, 19__
Re: Entry No. _____, dated _____, 19__.
Income carrier: _____
Arrived _____, 19__.

I certify that I am not the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry. I further certify that the merchandise was purchased for importation by _____ on _____, 19__, and that the purchase price is _____.

(Signed) _____

Form 2:

EXPORTER'S CERTIFICATE WHEN SALES PRICE IS KNOWN—ANTIDUMPING ACT, 1921

Port of _____
Date _____, 19__
Re: Entry No. _____, dated _____, 19__.
Import carrier: _____
Arrived _____, 19__.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry; that the merchandise is sold or agreed to be sold at the price stated in the attached statement; and that, if any of such merchandise is actually sold at any price different from the price stated therefor in the attached statement, I will immediately notify the appraiser of all the circumstances.

The merchandise was acquired by me in the following manner:

_____

and has been sold or agreed to be sold to

_____
(name and address)

at _____
(price)

(Signed) _____

Form 3:

EXPORTER'S CERTIFICATE WHEN SALES PRICE IS NOT KNOWN—ANTIDUMPING ACT, 1921

Port of _____
Date _____, 19__
Re: Entry No. _____, dated _____, 19__.
Import carrier: _____
Arrived _____, 19__.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry, and that I have no knowledge as to any price at which such merchandise will be sold in the United States. I hereby agree that I will keep a record of the sales and will furnish the appraiser within 30 days after the sale of any such merchandise a statement of each selling price. I further agree that, if any of the merchandise has not been sold before the expiration of 6 months from the date of entry, I will so report to the appraiser upon such expiration date.

The merchandise was acquired by me in the following manner:

_____

(Signed) _____

Form 4:

EXPORTER'S CERTIFICATE WHEN MERCHANDISE IS NOT, AND WILL NOT BE, SOLD—ANTIDUMPING ACT, 1921

Port of _____
Date _____, 19__
Re: Entry No. _____, dated _____, 19__.
Import carrier: _____
Arrived _____, 19__.

I certify that I am the exporter as defined in section 207, Antidumping Act, 1921, of the merchandise covered by the aforesaid entry, and that such merchandise has not been, and will not be, sold in the United States for the following reason: _____

(Signed) _____

(Sec. 486, 46 Stat. 725, as amended; 19 U.S.C. 1486)

§ 53.50 Appraisement of merchandise covered by Form 4.

If an unqualified certificate on Form 4 is filed and the district director of customs is satisfied that no evidence can

be obtained to contradict it, the shipment will be appraised without regard to the Antidumping Act.

§ 53.51 Appraisement when required certificate not filed.

If the importer fails to file an appropriate certificate within 30 days following notification by the district director of customs that a certificate is required under § 53.49, appraisement shall proceed upon the basis of the best information available.

§ 53.52 Reimbursement of dumping duties.

(a) *General.* In calculating purchase price or exporter's sales price as the case may be, there shall be deducted the amount of any special dumping duties which are, or will be paid by the manufacturer, producer, seller, or exporter, or which are, or will be, refunded to the importer by the manufacturer, producer, seller, or exporter, either directly or indirectly, but a warranty of nonapplicability of dumping duties will not be regarded as affecting purchase price or exporter's sales price if it was granted to an importer with respect to merchandise which was

(1) Purchased, or agreed to be purchased, before publication of a "Withholding of Appraisement Notice" with respect to such merchandise and

(2) Exported before a determination of sales at less than fair value is made.

(b) *Statement concerning reimbursement.* Before proceeding with appraisement of any merchandise with respect to which dumping duties are found to be due the district director of customs shall require the importer to file a written statement in the following form:

I hereby certify that I (have) (have not) entered into any agreement or understanding for the payment or for the refunding to me, by the manufacturer, producer, seller or exporter of all or any part of the special dumping duties assessed upon the following importations of (commodity) from (country): (List entry numbers) which have been purchased on or after (date of publication of witholding in FEDERAL REGISTER) or purchased before (same date) but exported on or after (date of determination of sales at less than fair value).

A certificate will be required for all merchandise that is unappraised on the date that the finding of dumping is issued. Thereafter, a separate certificate will be required for each additional shipment.

§ 53.53 Release of merchandise; bond.

When the district director of customs in accordance with § 53.34(c) has received a notice of withheld appraisement or when he has been advised of a finding provided for in § 53.40, and so long as such notice or finding is in effect, he shall withhold release of any merchandise of a class or kind covered by such notice or finding which is then in his custody or is thereafter imported, unless an appropriate bond is filed or is on file, as specified hereafter in § 53.54, or unless the merchandise covered by a specified entry will be appraised without regard to the Antidumping Act, 1921, as amended.

§ 53.54 Type of bond required.

(a) *General.* If the merchandise is of a class or kind covered by a notice of withheld appraisement provided for in § 53.48(a) or by a finding provided for in § 53.40, a single consumption entry bond covering the shipment, in addition to any other required bond, shall be furnished by the person making the entry or withdrawal, unless—

(1) A bond is required under paragraph (b) of this section, or

(2) In cases in which there is no such requirement the district director of customs is satisfied that the bond under which the entry was filed is sufficient. The face amount of any additional bond required under this paragraph shall be sufficient to assure payment of any special duty that may accrue by reason of the Antidumping Act, but in no case shall be for less than $100.

(b) *Bond on customs Form 7591.* If the merchandise is of a class or kind covered by a finding provided for in § 53.40 and the importer or his agent has filed a certificate on Form 3 (§ 53.49), the bond required by section 208 of the Antidumping Act, 1921, as amended (19 U.S.C. 167), shall be on customs Form 7591. In such case, a separate bond shall be required for each entry or withdrawal, and such bond shall be in addition to any other bond required by law or regulation. The record of sales required under the conditions of the bond of customs Form 7591 shall identify the entry covering the merchandise and show the name and address of each purchaser, each selling price, and the date of each sale. The penalty of such bond shall be in an amount equal to the estimated value of the merchandise covered by the finding.

§ 53.55 Conversion of currencies.

In determining the existence and amount of any difference between the purchase price or exporter's sales price and the foreign market value (or, in the absence of such value, the constructed value) for the purposes of §§ 53.2 through 53.5, or of section 201(b) or 202(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b), 161(a)), any necessary conversion of a foreign currency into its equivalent in U.S. currency shall be made in accordance with the provisions of section 522, Tariff Act of 1930, as amended (31 U.S.C. 372) and § 16.4 of this chapter, (a) as of the date of purchase or agreement to purchase, if the purchase price is an element of the comparison, or (b) as of the date of exportation, if the exporter's sales price is an element of the comparison.

§ 53.56 Dumping duty.

(a) *Rule for assessment.* Special dumping duty shall be assessed on all importations of merchandise, whether dutiable or free, as to which the Secretary of the Treasury has made public a finding of dumping, entered or withdrawn from warehouse, for consumption, not more than 120 days before the question of dumping was raised by or presented to the Secretary or his delegate, provided the particular importation has not been appraised prior to the publication of such finding, and the district director of customs has determined that the purchase price or exporter's sales price is less than the foreign market value or constructed value, as the case may be.

(b) *Entered value not controlling.* The fact that the importer has added on entry the difference between the purchase price or the exporter's sales price and the foreign market value or constructed value and the district director of customs has approved the resulting entered value shall not prevent the assessment of the special dumping duty.

§ 53.57 Notice to importer.

Before dumping duty is assessed, the district director of customs shall notify the importer, his consignee, or agent of the appraisement of the merchandise, as in the case of an advance in value. If the importer files an appeal for reappraisement, liquidation shall be suspended until the appeal for reappraisement is finally decided.

§ 53.58 Assessment of dumping duty.

If the necessary conditions are present, special dumping duty shall be assessed on samples imported for the purpose of taking orders and making sales in this country.

§ 53.59 Method of computing dumping duty.

If it appears that the merchandise has been purchased by a person not the exporter within the meaning of section 207, Antidumping Act, 1921, as amended (19 U.S.C. 166), the special dumping duty shall equal the difference between the purchase price and the foreign market value on the date of purchase, or, if there is no foreign market value, between the purchase price and the constructed value, any foreign currency involved being converted into U.S. money as of the date of purchase or agreement to purchase. If it appears that the merchandise is imported by a person who is the exporter within the meaning of such section 207, the special dumping duty shall equal the difference between the exporter's sales price and the foreign market value on the date of exportation, or, if there is no foreign market value, between the exporter's sales price and the constructed value, any foreign currency involved being converted into U.S. money as of the date of exportation.

Subpart E—Antidumping Appeals and Protests

§ 53.64 Antidumping appeals and protests procedure.

Appeals for reappraisement, applications for reviews of reappraisements, and protests relating to the Antidumping Act, 1921, as amended, shall be made in the same manner as appeals, applications for review, and protests relating to ordinary customs duties.

For ready comparison there is also annexed to this notice a parallel reference

table showing where former §§ 14.6–14.13, 16.21, 16.22, and 17.9 appear in Part 53.

It is contemplated that the proposed amendments, if adopted, will become effective July 1, 1968.

Prior to final adoption of any amendments based on these proposed changes consideration will be given to any relevant data, views, or arguments which are submitted in duplicate to the Commissioner of Customs, Washington, D.C. 20226 within 60 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: October 23, 1967.

TRUE DAVIS,
Assistant Secretary of the Treasury.

APPENDIX A—ANTIDUMPING ACT, 1921, AS AMENDED

NOTE: Filed as part of the original document.

APPENDIX B—AGREEMENT ON IMPLEMENTATION OF ARTICLE VI OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The parties to this Agreement,

Considering that Ministers on May 21, 1963, agreed that a significant liberalization of world trade was desirable and that the comprehensive trade negotiations, the 1964 Trade Negotiations, should deal not only with tariffs but also with nontariff barriers;

Recognizing that antidumping practices should not constitute an unjustifiable impediment to international trade and that antidumping duties may be applied against dumping only if such dumping causes or threatens material injury to an established industry or materially retards the establishment of an industry;

Considering that it is desirable to provide for equitable and open procedures as the basis for a full examination of dumping cases; and

Desiring to interpret the provisions of Article VI of the General Agreement and to elaborate rules for their application in order to provide greater uniformity and certainty in their implementation;

Hereby agree as follow:

PART I—ANTIDUMPING CODE

ARTICLE 1. The imposition of an antidumping duty is a measure to be taken only under the circumstances provided for in Article VI of the General Agreement. The following provisions govern the application of this Article, in so far as action is taken under antidumping legislation or regulations.

A. Determination of dumping

ART. 2. (a) For the purpose of this Code a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

(b) Throughout this Code the term "like product" ("produit similaire") shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

(c) In the case where products are not imported directly from the country of origin but are exported to the country of importation from an intermediate country, the price at which the products are sold from the country of export to the country of importation shall normally be compared with the comparable price in the country of export. However, comparsion may be made with the price in the country of origin, if, for example, the products are merely transshipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.

(d) When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation, such sales do not permit a proper comparsion, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to any third country which may be the highest such export price but should be a representative price, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and other costs and for profits. As a general rule, the addition for profit shall not exceed the profit normally realized on sales of products of the same general category in the domestic market of the country of origin.

(e) In cases where there is no export price or where it appears to the authorities [1] concerned that the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the authorities may determine.

(f) In order to effect a fair comparison between the export price and the domestic price in the exporting country (or the country of origin) or, if applicable, the price established pursuant to the provisions of Article VI:1(b) of the General Agreement, the two prices shall be compared at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for the differences in conditions and terms of sale, for the differences in taxation, and for the other differences affecting price comparability. In the cases referred to in Article 2(e) allowance for costs, including duties and taxes, incurred between importation and resale, and for profits accruing, should also be made.

(g) This Article is without prejudice to the second Supplementary Provision to paragraph 1 of Article VI in Annex I of the General Agreement.

B. Determination of Material Injury, Threat of Material Injury, and Material Retardation

ART. 3. *Determination of Injury* [2]—(a) A determination of injury shall be made only when the authorities concerned are satisfied that the dumped imports are demonstrably the principal cause of material injury or of threat of material injury to a domestic industry or the principal cause of material retardation of the establishment of such an industry. In reaching their decision the authorities shall weigh, on one hand, the effect of the dumping and, on the other hand, all other factors, taken together which may be adversely affecting the industry. The determination shall in all cases be based on positive findings and not on mere allegations or hypothetical possibilities. In the case of retarding the establishment of a new industry in the country of importation, convincing evidence of the forthcoming establishment of an industry must be shown, for example that the plans for a new industry have reached a fairly advanced stage, a factory is being constructed or machinery has been ordered.

(b) The valuation of injury—that is the evaluation of the effects of the dumped imports on the industry in question—shall be based on examination of all factors having a bearing on the state of the industry in question, such as: Development and prospects with regard to turnover, market share, profits, prices (including the extent to which the delivered, duty-paid price is lower or higher than the comparable price for the like product prevailing in the course of normal commercial transactions in the importing country), export performance, employment, volume of dumped and other imports, utilization of capacity of domestic industry, and productivity; and restrictive trade practices. No one or several of these factors can necessarily give decisive guidance.

(c) In order to establish whether dumped imports have caused injury, all other factors which, individually or in combination, may be adversely affecting the industry shall be examined, for example: the volume and prices of undumped imports of the product in question, competition between the domestic producers themselves, contraction in demand due to substitution of other products or to changes in consumer tastes.

(d) The effect of the dumped imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of production in terms of such criteria as: The production process, the producers' realizations, profits. When the domestic production of the like product has no separate identity in these terms the effect of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

(e) A determination of threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause material injury must be clearly foreseen and imminent.[3]

(f) With respect to cases where material injury is threatened by dumped imports, the application of antidumping measures shall be studied and decided with special care.

ART. 4. *Definition of Industry*—(a) In determining injury the term "domestic industry" shall be interpreted as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products except that:

[1] When in this Code the term "authorities" is used, it shall be interpreted as meaning authorities at an appropriate, senior level.

[2] When in this Code the term "injury" is used, it shall, unless otherwise specified, be interpreted as covering cause of material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry.

[3] One example, though not an exclusive one, is that there is convincing reason to believe that there will be, in the immediate future, substantially increased importations of the product at dumped prices.

(i) When producers are importers of the allegedly dumped product the industry may be interpreted as referring to the rest of the producers;

(ii) In exceptional circumstances a country may, for the production in question, be divided into two or more competitive markets and the producers within each market regarded as a separate industry, if, because of transport costs, all the producers within such a market sell all or almost all of their production of the product in question in that market, and none, or almost none, of the product in question produced elsewhere in the country is sold in that market or if there exist special regional marketing conditions (for example, traditional patterns of distribution or consumer tastes) which result in an equal degree of isolation of the producers in such a market from the rest of the industry: *Provided, however,* That injury may be found in such circumstances only if there is injury to all or almost all of the total production of the product in the market as defined.

(b) Where two or more countries have reached such a level of integration that they have the characteristics of a single, unified market, the industry in the entire area of integration shall be taken to be the industry referred to in Article 4(a).

(c) The provisions of Article 3(d) shall be applicable to this Article.

C. Investigation and Administration Procedures

ART. 5. *Initiation and Subsequent Investigation*—(a) Investigation shall normally be initiated upon a request on behalf of the industry[4] affected, supported by evidence both of dumping and of injury resulting therefrom for this industry. If in special circumstances the authorities concerned decide to initiate an investigation without having received such a request, they shall proceed only if they have evidence both on dumping and on injury resulting therefrom.

(b) Upon initiation of an investigation and thereafter, the evidence of both dumping and injury should be considered simultaneously. In any event the evidence of both dumping and injury shall be considered simultaneously in the decision whether or not to initiate an investigation, and thereafter, during the course of the investigation, starting on a date not later than the earliest date on which provisional measures may be applied, except in the cases provided for in Article 10(d) in which the authorities accept the request of the exporter and the importer.

(c) An application shall be rejected and an investigation shall be terminated promptly as soon as the authorities concerned are satisfied that there is not sufficient evidence of either dumping or of injury to justify proceeding with the case. There should be immediate termination in cases where the margin of dumping or the volume of dumped imports, actual or potential, or the injury is negligible.

(d) An antidumping proceeding shall not hinder the procedures of customs clearance.

ART. 6. *Evidence*—(a) The foreign suppliers and all other interested parties shall be given ample opportunity to present in writing all evidence that they consider useful in respect to the antidumping investigation in question. They shall also have the right, on justification, to present evidence orally.

(b) The authorities concerned shall provide opportunities for the complainant and the importers and exporters known to be concerned and the governments of the exporting countries, to see all information that is relevant to the presentation of their cases, that is not confidential as defined in paragraph (c) below, and that is used by the authorities in an antidumping investigation, and to prepare presentations on the basis of this information.

(c) All information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or because its disclosure would have a significantly adverse effect upon a person supplying the information or upon a person from whom he acquired the information) or which is provided on a confidential basis by parties to an antidumping investigation shall be treated as strictly confidential by the authorities concerned who shall not reveal it, without specific permission of the party submitting such information.

(d) However, if the authorities concerned find that a request for confidentiality is not warranted and if the supplier is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities would be free to disregard such information unless it can be demonstrated to their satisfaction from appropriate sources that the information is correct.

(e) In order to verify information provided or to obtain further details, the authorities may carry out investigations in other countries as required, provided they obtain the agreement of the firms concerned and provided they notify the representatives of the government of the country in question and unless the latter object to the investigation.

(f) Once the competent authorities are satisfied that there is sufficient evidence to justify initiating an antidumping investigation pursuant to Article 5 representatives of the exporting country and the exporters and importers known to be concerned shall be notified and a public notice may be published.

(g) Throughout the antidumping investigation all parties shall have a full opportunity for the defence of their interests. To this end, the authorities concerned shall, on request, provide opportunities for all directly interested parties to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any party to attend a meeting and failure to do so shall not be prejudicial to that party's case.

(h) The authorities concerned shall notify representatives of the exporting country and the directly interested parties of their decisions regarding imposition or nonimposition of antidumping duties, indicating the reasons for such decisions and the criteria applied, and shall, unless there are special reasons against doing so, make public the decisions.

(i) The provisions of this Article shall not preclude the authorities from reaching preliminary determinations, affirmative or negative, or from applying provisional measures expeditiously. In cases in which any interested party withholds the necessary information, a final finding, affirmative or negative, may be made on the basis of the facts available.

ART. 7. *Price Undertakings*—(a) Antidumping proceedings may be terminated without imposition of antidumping duties or provisional measures upon receipt of a voluntary undertaking by the exporters to revise their prices so that the margin of dumping is eliminated or to cease to export to the area in question at dumped prices if the authorities concerned consider this practicable, e.g. if the number of exporters or potential exporters of the product in question is not too great and/or if the trading practices are suitable.

(b) If the exporters concerned undertake during the examination of a case, to revise prices or to cease to export the product in question, and the authorities concerned accept the undertaking, the investigation of injury shall nevertheless be completed if the exporters so desire or the authorities concerned so decide. If a determination of no injury is made, the undertaking given by the exporters shall automatically lapse unless the exporters state that it shall not lapse. The fact that exporters do not offer to give such undertakings during the period of investigation, or do not accept an invitation made by the investigating authorities to do so, shall in no way be prejudicial to the consideration of the case. However, the authorities are of course free to determine that a threat of injury is more likely to be realized if the dumped imports continue.

D. Antidumping Duties and Provisional Measures

ART. 8. *Imposition and Collection of Antidumping Duties*—(a) The decision whether or not to impose an antidumping duty in cases where all requirements for the imposition have been fulfilled and the decision whether the amount of the antidumping duty to be imposed shall be the full margin of dumping or less, are decisions to be made by the authorities of the importing country or customs territory. It is desirable that the imposition be permissive in all countries or customs territories parties to this Agreement, and that the duty be less than the margin, if such lesser duty would be adequate to remove the injury to the domestic industry.

(b) When an antidumping duty is imposed in respect of any product, such antidumping duty shall be levied, in the appropriate amounts in each case, on a nondiscriminatory basis on imports of such product from all sources found to be dumped and causing injury. The authorities shall name the supplier or suppliers of the product concerned. If, however, several suppliers from the same country are involved, and it is impracticable to name all these suppliers, the authorities may name the supplying country concerned. If several suppliers from more than one country are involved, the authorities may name either all the suppliers involved, or, if this is impracticable, all the supplying countries involved.

(c) The amount of the antidumping duty must not exceed the margin of dumping as established under Article 2. Therefore, if subsequent to the application of the antidumping duty it is found that the duty so collected exceeds the actual dumping margin, the amount in excess of the margin shall be reimbursed as quickly as possible.

(d) Within a basic price system the following rules shall apply provided that their application is consistent with the other provisions of this Code:

If several suppliers from one or more countries are involved, antidumping duties may be imposed on imports of the product in question found to have been dumped and to be causing injury from the country or countries concerned, the duty being equivalent to the amount by which the export price is less than the basic price established for this purpose, not exceeding the lowest normal price in the supplying country or countries where normal conditions of competition are prevailing. It is understood that for products which are sold below this already established basic price a new antidumping investigation shall be carried out in each particular case, when so demanded by the interested parties and the demand is supported by relevant evidence. In cases where no dumping is

[4] As defined in Article 4.

found, antidumping duties collected shall be reimbursed as quickly as possible. Furthermore, if it can be found that the duty so collected exceeds the actual dumping margin, the amount in excess of the margin shall be reimbursed as quickly as possible.

(e) When the industry has been interpreted as referring to the producers in a certain area, i.e. a market as defined in Article 4(a)(ii), antidumping duties shall only be definitively collected on the products in question consigned for final consumption to that area, except in cases where the exporter shall, prior to the imposition of antidumping duties, be given an opportunity to cease dumping in the area concerned. In such cases, if an adequate assurance to this effect is promptly given, antidumping duties shall not be imposed, provided, however, that if the assurance is not given or is not fulfilled, the duties may be imposed without limitation to an area.

ART. 9. *Duration of Antidumping Duties*—(a) An antidumping duty shall remain in force only as long as it is necessary in order to counteract dumping which is causing injury.

(b) The authorities concerned shall review the need for the continued imposition of the duty, where warranted, on their own initiative or if interested suppliers or importers of the product so request and submit information substantiating the need for review.

ART. 10. *Provisional Measures*—(a) Provisional measures may be taken only when a preliminary decision has been taken that there is dumping and when there is sufficient evidence of injury.

(b) Provisional measures may take the form of a provisional duty or, preferably, a security—by deposit or bond—equal to the amount of the antidumping duty provisionally estimated, being not greater than the provisionally estimated margin of dumping. Withholding of appraisement is an appropriate provisional measure provided that the normal duty and the estimated amount of the antidumping duty be indicated and as long as the withholding of appraisement is subject to the same conditions as other provisional measures.

(c) The authorities concerned shall inform representatives of the exporting country and the directly interested parties of their decisions regarding imposition of provisional measures indicating the reasons for such decisions and the criteria applied, and shall, unless there are special reasons against doing so, make public such decisions.

(d) The imposition of provisional measures shall be limited to as short a period as possible. More specifically, provisional measures shall not be imposed for a period longer than 3 months or, on decision of the authorities concerned upon request by the exporter and the importer, 6 months.

(e) The relevant provisions of Article 8 shall be followed in the application of provisional measures.

ART. 11. *Retroactivity*—Antidumping duties and provisional measures shall only be applied to products which enter for consumption after the time when the decision taken under Articles 8(a) and 10(a), respectively, enters into force, except that in cases:

(i) Where a determination of material injury (but not of a threat of material injury, or of a material retardation of the establishment of an industry) is made or where the provisional measures consist of provisional duties and the dumped imports carried out during the period of their application would, in the absence of these provisional measures, have caused material injury, antidumping duties may be levied retroactively for the period for which provisional measures, if any, have been applied.

If the antidumping duty fixed in the final decision is higher than the provisionally paid duty, the difference shall not be collected. If the duty fixed in the final decision is lower than the provisionally paid duty or the amount estimated for the purpose of the security, the difference shall be reimbursed or the duty recalculated, as the case may be.

(ii) Where appraisement is suspended for the product in question for reasons which arose before the initiation of the dumping case and which are unrelated to the question of dumping, retroactive assessment of antidumping duties may extend back to a period not more than 120 days before the submission of the complaint.

(iii) Where for the dumped product in question the authorities determine—

(a) Either that there is a history of dumping which caused material injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause material injury, and

(b) That the material injury is caused by sporadic dumping (massive dumped imports of a product in a relatively short period) to such an extent that, in order to preclude it recurring, it appears necessary to assess an antidumping duty retroactively on those imports,

the duty may be assessed on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures.

E. Antidumping Action on Behalf of a Third Country

ART. 12. (a) An application for antidumping action on behalf of a third country shall be made by the authorities of the third country requesting action.

(b) Such an application shall be supported by price information to show that the imports are being dumped and by detailed information to show that the alleged dumping is causing injury to the domestic industry concerned in the third country. The government of the third country shall afford all assistance to the authorities of the importing country to obtain any further information which the latter may require.

(c) The authorities of the importing country in considering such an application shall consider the effects of the alleged dumping on the industry concerned as a whole in the third country; that is to say the injury shall not be assessed in relation only to the effect of the alleged dumping on the industry's exports to the importing country or even on the industry's total exports.

(d) The decision whether or not to proceed with a case shall rest with the importing country. If the importing country decides that it is prepared to take action, the initiation of the approach to the Contracting Parties seeking their approval for such action shall rest with the importing country.

PART II—FINAL PROVISIONS

ART. 13. This Agreement shall be open for acceptance, by signature or otherwise, by contracting parties to the General Agreement and by the European Economic Community. The Agreement shall enter into force on July 1, 1968, for each party which has accepted it by that date. For each party accepting the Agreement after that date, it shall enter into force upon acceptance.

ART. 14. Each party to this Agreement shall take all necessary steps, of a general or particular character, to ensure, not later than the date of the entry into force of the Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of the Anti-Dumping Code.

ART. 15. Each party to this Agreement shall inform the Contracting Parties to the General Agreement of any changes in its antidumping laws and regulations and in the administration of such laws and regulations.

ART. 16. Each party to this Agreement shall report to the Contracting Parties annually on the administration of its antidumping laws and regulations, giving summaries of the cases in which antidumping duties have been assessed definitively.

ART. 17. The parties to this Agreement shall request the Contracting Parties to establish a Committee on Antidumping Practices composed of representatives of the parties to this Agreement. The Committee shall normally meet once each year for the purpose of affording parties to this Agreement the opportunity of consulting on matters relating to the administration of antidumping systems in any participating country or customs territory as it might affect the operation of the Anti-Dumping Code or the furtherance of its objectives. Such consultations shall be without prejudice to Articles XXII and XXIII of the General Agreement.

This Agreement shall be deposited with the Director-General to the Contracting Parties who shall promptly furnish a certified copy thereof and a notification of each acceptance thereof to each contracting party to the General Agreement and to the European Economic Community.

This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this 30th day of June, one thousand nine hundred and sixty-seven, in a single copy, in the English and French languages, both texts being authentic.

APPENDIX C—PARALLEL REFERENCE TABLE

(This table shows the relation of sections in proposed Part 53 to 19 CFR 14.6–14.13, 16.21, 16.22, and 17.9)

Part 53 sections		*Part 14 sections*
53.1	Scope	New.
	SUBPART A—FAIR VALUE	
53.2	Fair value—Definition	14.7(a).
53.3	Fair value based on price in country of exportation—The usual test.	14.7(a)(1)(i).
	(a) General.	
	(b) Restricted sales	Footnote 15 to Part 14, Example 1.
53.4	Fair value based on sales for exportation to countries other than the United States.	14.7(a)(2).
	(a) General.	
	(b) Twenty-five percent rule.	
	(c) Restricted sales	Footnote 15 to Part 14, Example 2.
53.5	Fair value based on constructed value	14.7(a)(3).
	(a) General	14.7(a)(3).
	(b) Merchandise from controlled economy country.	New.
53.6	Calculation of fair value	14.7(b).

53.7	Fair value—Differences in quantities (a) General. (b) Criteria for allowances. (c) Price lists.	14.7(b)(1).
53.8	Fair value—Circumstances of sale (a) General. (b) Examples. (c) Relation to market value.	14.7(b)(2).
53.9	Fair value—Similar merchandise	14.7(b)(3).
53.10	Fair value—Offering price	14.7(b)(4).
53.11	Fair value—Sales agency	14.7(b)(5).
53.12	Fair value—Fictitious sales	14.7(b)(6).
53.13	Fair value—Sales at varying prices	14.7(b)(7).
53.14	Fair value—Quantities involved and differences in price.	14.7(b)(8).
53.15	Fair value—Revision of prices or other changed circumstances. (a) Discontinuance of investigation. (b) Notice.	14.7(b)(9).
53.16	Fair value—Shipments from intermediate country	New.
53.17–53.22	Reserved.	

SUBPART B—AVAILABILITY OF INFORMATION

53.23	Availability of information in antidumping proceedings. (a) Information generally available (b) Requests for confidential treatment of information. (c) Standards for determining whether information will be regarded as confidential.	14.6a. 14.6a(a). 14.6a(b). 14.6a(c).
53.24	Reserved.	

SUBPART C—PROCEDURE UNDER ANTIDUMPING ACT, 1921

53.25	Suspected dumping—Information from customs officer.	14.6(a).
53.26	Suspected dumping—Information from persons outside Customs Service.	14.6(b).
53.27	Suspected dumping—Nature of information to be made available.	14.6(b) and paragraphs 2 and 3, footnote 15 to Part 14.
53.28	Adequacy of information	14.6(c).
53.29	Initiation of antidumping proceeding; summary investigation.	14.6(d)(1)(i).
53.30	Antidumping Proceeding Notice	14.6(d)(1)(i).
53.31	Full scale investigation (a) Initiation of investigation. (b) Termination of investigation.	14.6(d)(3) (i) and (ii).
53.32	Determination as to fact or likelihood of sales at less than fair value. (a) Fair value determination (b) Submission of views	14.8(a). 14.8(a). 14.8(a).
53.33	Negative determination (a) Notice of Tentative Negative Determination (b) Opportunity to present views (c) Final determination	14.8(a). 14.8(a). 14.8(a). 14.8(a).
53.34	Withholding of appraisement (a) Three-month period. (b) Six-month period. (c) Advice to District Directors of Customs.	14.6(e).
53.35	Affirmative determination—Appraisement withheld not more than 3 months.	New.
53.36	Affirmative determination—Appraisement withheld not more than 6 months.	New.
53.37	Referral to U.S. Tariff Commission	14.8(a).
53.38	Affirmative determination—Opportunity to present views.	14.8(a).
53.39	Revocation of determination of sales at less than fair value; determination of sales at not less than fair value.	New.
53.40	Dumping finding	14.8(b).
53.41	Modification or revocation of finding (a) Application to modify or revoke. (b) Modification or revocation by Secretary. (c) Notice of modification or revocation of finding.	14.12.
53.42	Publication of determinations and findings	14.13(a).
53.43	List of current findings	14.13(b).
53.44–53.47	Reserved.	

SUBPART D—ACTION BY DISTRICT DIRECTOR OF CUSTOMS

53.48	Action by the District Director of Customs (a) Appraisement withheld—Notice to importer. (b) Request to proceed with appraisement	14.9(a). 14.9(a). 14.9(b).
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SUBPART E—ANTIDUMPING APPEALS AND PROTESTS

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[F.R. Doc. 67-12776; Filed, Oct. 27, 1967; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 815]

MAINLAND SUGAR QUOTA FOR PUERTO RICO

Notice of Hearing on Proposed Allotment of 1968 Direct Consumption Portion

Pursuant to the authority contained in the Sugar Act of 1948, as amended (61 Stat. 922, as amended), hereinafter called the "Act", and in accordance with the applicable rules of practice and procedure (7 CFR 801.1 et seq.), and on the basis of information before me, I do hereby find that the allotment of the direct-consumption portion of the 1968 mainland quota for Puerto Rico is necessary to prevent disorderly marketing of such sugar and to afford all interested persons an equitable opportunity to market such sugar in the continental United States, and hereby give notice that a public hearing will be held at Santurce, Puerto Rico, in Conference Room of Puerto Rico Farm Bureau, Condominio

San Martin, Parque and Ponce de Leon Avenue, Stop 23 on November 8, 1967, at 10 a.m.

The findings made above are in the nature of preliminary findings based on the best information now available. The quantity of direct-consumption sugar which will be permitted to be brought into the continental United States within the 1968 quota is still unknown. However, the capacity of Puerto Rican refineries to produce direct-consumption sugar far exceeds the quantity of such sugar which may be marketed in the continental United States and for local consumption in Puerto Rico within probable 1968 quotas.

Under such circumstances it is imperative that provision be made for the allotment of the direct-consumption portion of the mainland quota to avoid disorderly marketing and to afford all interested persons an equitable opportunity to market direct-consumption sugar in the continental United States.

It will be appropriate to present evidence at the hearing on the basis of which the Secretary of Agriculture may affirm, modify, or revoke such preliminary findings and make or withhold allotment of the direct-consumption portion of the mainland quota in accordance therewith.

The purpose of such hearing is to receive evidence to enable the Secretary of Agriculture to make fair, efficient, and equitable allotments of the direct-consumption portion of the 1968 mainland quota among persons who produce or refine and market direct-consumption sugar to be brought into the continental United States for consumption therein.

In addition, the subject and issues of this hearing also include (1) the manner in which the statutory factors of "processings", "past marketings", and "ability to market", as provided in section 205(a) of the Act, should be measured; and (2) the relative weightings which should be given to these factors.

Notice also is given hereby that it will be appropriate at the hearing to present evidence on the basis of which the Secretary may revise or amend the allotment of the direct-consumption portion of the mainland quota for the purposes of (1) allotting any increase, or decrease in the direct-consumption portion of the mainland quota; (2) allotting any deficit in the allotment for any allottee, and (3) substituting revised estimates of data or final actual data for estimates of such data wherever estimates are used in the formulation of an allotment of this portion of the quota.

Signed at Washington, D.C., this 24th day of October 1967.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 67-12759; Filed, Oct. 27, 1967; 8:49 a.m.]

Consumer and Marketing Service

[7 CFR Part 991]

HOPS OF DOMESTIC PRODUCTION

Handling

Notice is hereby given of a proposal unanimously recommended by the Hop Administrative Committee. The proposal would extend to each producer, for the 1969 and 1970 crop, permission to retain his allotment base without making a bona fide effort to produce the annual allotment referable thereto and would prescribe requirements whereby the Committee may require advances by equity holders of pooled reserve hops. The authorization for the proposal would be pursuant to §§ 991.38 and 991.40 of Marketing Order No. 991 (7 CFR Part 991), regulating the handling of hops of domestic production effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the eighth day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 991.138a Waiver of requirement as to production of annual allotment—1968-70 crop.

Pursuant to § 991.38(a)(5) the requirements therein for a producer to make a bona fide effort to produce the annual allotment referable to his allotment base is waived for the 1968, 1969, and 1970 crop for all producers.

§ 991.205 Advance payments by equity holders of pooled reserve hops.

As a condition of accepting and including the reserve hops of any producer-handler in the reserve pool, the Committee may require advance payments from equity holders of pooled reserve hops. Such advances shall be in an amount, as determined by the Committee, as will be necessary to meet all charges attributable to reserve pooling but shall not exceed $1.50 per bale.

Dated: October 25, 1967.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Division.

[F.R. Doc. 67-12762; Filed, Oct. 27, 1967; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 27]

CANNED GRAPEFRUIT

Standards of Identity, Quality, and Fill of Container

Notice is given that the Commissioner of Food and Drugs, on his own initiative, proposes to establish standards of identity, quality, and fill of container for canned grapefruit. Accordingly, it is proposed that three new sections be added to Part 27, as follows:

§ 27.90 Canned grapefruit; identity; label statement of optional ingredients.

(a) Canned grapefruit is the food prepared from one of the optional grapefruit ingredients specified in paragraph (b) of this section and one of the optional packing media specified in paragraph (c) of this section. Such food may also contain one or more of the following optional ingredients:

(1) Spices.

(2) Flavoring, other than artificial flavoring.

(3) Lemon juice.

(4) Citric acid.

(5) Calcium chloride or calcium lactate or a mixture of the two calcium salts in a quantity reasonably necessary to firm the grapefruit sections, but in no case in a quantity such that the calcium contained in such calcium salt or mixture is more than 0.035 percent by weight of the finished food.

Such food is sealed in a container and, either before or after sealing, is so processed by heat as to prevent spoilage.

(b) The optional grapefruit ingredients referred to in paragraph (a) of this section are prepared from sound, mature grapefruit (*Citrus paradisi*) of the white-, pink-, or red-fleshed varietal group and are in the following forms of units: Whole sections or broken sections. Each such form of units prepared from a varietal group or a mixture of such forms of units is an optional grapefruit ingredient. The core, seeds, and major portions of membrane of such ingredient are removed. For the purpose of this section, a grapefruit section is considered whole when the unit is intact or an intact portion of such unit is not less than 75 percent of its apparent original size and is not excessively trimmed.

(1) For the purpose of paragraph (d) of this section, the name of the optional grapefruit ingredient is:

(i) "Sections" or "segments," if 75 percent or more of the drained weight of the food consists of whole sections.

(ii) "Whole and broken sections" or "whole and broken segments," if less than 75 percent but not less than 50

percent of the drained weight of the food consists of whole sections.

(iii) "Broken sections" or "broken segments," if less than 50 percent of the drained weight of the food consists of whole sections.

(2) The drained weight is determined by the method prescribed in the standard of fill of container for canned grapefruit set forth in § 27.92(b).

(c) (1) The optional packing media referred to in paragraph (a) of this section are:

(i) Water.

(ii) Grapefruit juice.

(iii) Slightly sweetened water.

(iv) Light sirup.

(v) Heavy sirup.

(vi) Slightly sweetened grapefruit juice.

(vii) Light grapefruit juice sirup.

(viii) Heavy grapefruit juice sirup.

As used in this subparagraph the term "water" means, in addition to water, any mixture of water and grapefruit juice; and the term "grapefruit juice" means the fresh or canned expressed juice of mature grapefruit to which no water is added, directly or indirectly.

(2) Each of packing media in subparagraph (1) (iii) to (viii), inclusive, of this paragraph is prepared with a liquid ingredient and a saccharine ingredient. Water is the liquid ingredient from which packing media in subparagraph (1) (iii) to (v), inclusive, of this paragraph are prepared, and grapefruit juice is the liquid ingredient from which packing media in subparagraph (1) (vi) to (viii), inclusive, of this paragraph are prepared. The saccharine ingredient from which packing media in subparagraph (1) (iii) to (viii), inclusive, of this paragraph are prepared is one of the following: Sugar; invert sugar sirup; any combination of sugar or invert sugar sirup and dextrose in which the weight of the solids of the dextrose used is not more than one-half the weight of the solids of the sugar or invert sugar sirup used; any combination of sugar or invert sugar sirup and corn sirup or glucose sirup in which the weight of the solids of the corn sirup or glucose sirup used is not more than one-third the weight of the solids of the sugar or invert sugar sirup used; or any combination of sugar or invert sugar sirup, dextrose, and corn sirup or glucose sirup in which twice the weight of the solids of the dextrose used added to three times the weight of the solids of the corn sirup or glucose sirup used are not more than the weight of the solids of the sugar or invert sugar sirup used; except that packing media in subparagraph (1) (vi) to (viii), inclusive, of this paragraph are not prepared with any invert sugar sirup or with any corn sirup other than dried corn sirup or with any glucose sirup other than dried glucose sirup. A packing medium prepared with grapefruit juice and any invert sugar sirup or corn sirup other than dried corn sirup, or glucose sirup other than dried glucose sirup, is considered to be prepared with water as the liquid ingredient.

(3) The respective densities of packing media in subparagraph (1) (iii) to (viii), inclusive, of this paragraph as measured on the Brix hydrometer 15 days or more after the grapefruit are canned, are within the range prescribed for each in the following list:

Number of medium packing	*Brix measurement*
(1) (iii) and (vi)-----	12° or more, but less than 16°.
(1) (iv) and (vii)----	16° or more, but less than 18°.
(1) (v) and (viii)----	18° or more.

(d) The name of the food is "grapefruit," "pink grapefruit," or "red grapefruit," as appropriate for the varietal group used, preceded or followed by the designation of the optional form of the grapefruit ingredients as set forth in paragraph (b)(1) of this section. Further, the principal display panel of the label shall bear the name of the optional packing medium used as designated in paragraph (c) of this section preceded by "in" or "packed in." When any of the optional ingredients permitted by one of the following specified subparagraphs of paragraph (a) of this section are used, the label shall bear the words set forth below after the number of such subparagraph:

(1) "Spiced" or "spice added" or "with added spice," or in lieu of the word "spice," the common name of the spice.

(2) "Flavoring added" or "with added flavoring," or in lieu of the word "flavoring," the common name of the flavoring.

(3) "Seasoned with lemon juice."

(4) "Citric acid added" or "with added citric acid."

(5) "Calcium _____ added to improve firmness," the blank being filled in with "chloride" or "lactate" or "chloride and lactate" as the case may be.

When two or more of the optional ingredients specified in paragraph (a) (1), (2), (3), and (4) of this section are used, such words may be combined; for example, "with added cloves, cinnamon oil, citric acid, and seasoned with lemon juice."

(e) Statements naming the optional ingredients specified in paragraph (d) of this section shall be listed on the principle display panel or panels of the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase.

§ 27.91 Canned grapefruit; quality; label statement of substandard quality.

(a) The standard of quality for canned grapefruit is as follows:

(1) Each 20 ounces of the finished food contains not more than:

(i) One small piece of harmless extraneous material such as leaves, portions of leaves, and pieces of peel.

(ii) An aggregate area of 3 square inches on the units covered by tough membrane or albedo.

(iii) Twelve seeds including not more than three large seeds. A seed, whether or not fully developed, is considered a seed when any portion thereof measures more than 3/16 inch in any dimension. A seed is considered a large seed when it measures more than 3/8 inch in any dimension.

(2) Not more than 15 percent by weight of the drained grapefruit may be blemished units. A unit is considered blemished when a grapefruit section or any portion thereof is damaged by lye peeling, by discoloration, or by other visible injury. The drained weight is determined by the method prescribed in the standard of fill of container for canned grapefruit set forth in § 27.92(b).

(b) If the quality of canned grapefruit falls below the standard prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard quality specified in § 10.7(a) of this chapter, in the manner and form therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement "Below standard in quality _____," the blank being filled in with the words specified after the corresponding number of each clause of paragraph (a) of this section which such canned grapefruit fails to meet, as follows:

(1) (i) Excessive extraneous material.

(ii) Excessive tough membrane.

(iii) Excessive seeds.

(2) Excessive blemished units.

Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "grapefruit" and any other words and statements required or authorized to appear with such name by § 27.90.

§ 27.92 Canned grapefruit; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned grapefruit is a fill such that:

(1) The fill of grapefruit and packing medium, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(2) The drained weight of the grapefruit ingredient, as determined by the method prescribed in paragraph (b) of this section, is not less than 53 percent of the water capacity of the container, as determined by the general method for water capacity of containers prescribed in § 10.6(a) of this chapter.

(b) Drained weight is determined by the following method: Tilt the opened container so as to distribute the contents evenly over the meshes of a circular sieve which has previously been weighed. The diameter of the sieve is 8 inches if the quantity of contents of the container is less than 3 pounds and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven-wire cloth that complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in table I of "Standard Specifications for Sieves," published March 1, 1940, in

L.C. 584 of the U.S. Department of Commerce, National Bureau of Standards. Without shifting the material on the sieve, incline the sieve at an angle of 17° to 20° to facilitate drainage. Two minutes after the drainage begins, weigh the sieve and drained grapefruit. The weight so found, less the weight of the sieve, shall be considered to be the weight of the drained grapefruit.

(c) If canned grapefruit falls below the standard of fill of container prescribed in paragraph (a) of this section, the label shall bear the statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form therein specified.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120), all interested persons are invited to submit their views in writing, preferably in quintuplicate, regarding this proposal. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, within 60 days following the date of publication of this notice in the FEDERAL REGISTER and may be accompanied by a memorandum or brief in support thereof.

Dated: October 20, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12754; Filed, Oct. 27, 1967; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release 40-5128]

PARTICIPATION OF INVESTMENT COMPANIES WITH AFFILIATED PERSONS

Applications for Transactions

Notice is hereby given that the Securities and Exchange Commission has under consideration revising Rule 17d-1 under the Investment Company Act of 1940 ("Act") (§ 270.17d-1 of Chapter II of Title 17, Code of Federal Regulations). The proposed revision (§ 270.17d-1) would require that Commission approval be obtained before certain affiliated persons of an investment company could participate in transactions with the investment company or its controlled company. Commission approval would be requested by application, and in this respect the proposed revision (§ 270.17d-1) is similar to the present Rule 17d-1 (§ 270.17d-1). However, the proposed revision (§ 270.17d-1) would set forth more exact standards as to when an investment company and an affiliated person must file an application.

The revision (§ 270.17d-1) would be adopted pursuant to the authority granted to the Commission in sections 17(d), 6(c), and 38(a) of the Act.

Section 17(d) of the Act makes it unlawful for any affiliated person of a registered investment company acting as principal to effect any transaction in which the registered investment company or its controlled company is a joint or a joint and several participant with the affiliated person in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by the registered investment company or its controlled company on a basis different from or less advantageous than that of the affiliated participants. The prohibitions of section 17(d) of the Act also apply to any principal underwriter for a registered investment company and to any affiliated person of an affiliated person or a principal underwriter.

Section 6(c) of the Act provides that the Commission by rule, regulation, or order may exempt any person or transaction or any class of persons or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 38(a) of the Act authorizes the Commission to issue such rules as are necessary or appropriate to the exercise of the powers conferred upon the Commission in the Act.

Section 17(d) of the Act and Rule 17d-1 (§ 270.17d-1), taken together, are designed to regulate certain situations where persons making the investment decisions for the registered or controlled company may have a conflict of interest and the danger exists that the investment company or its controlled company may be overreached by such affiliated persons. The conflict of interest most often occurs where, in acquiring, holding or disposing of securities for an investment company's portfolio, affiliated persons, who make or influence such investment decisions for the investment company, also have or intend to acquire personal financial interests in the securities of the same issuer. In Securities and Exchange Commission v. Midwest Technical Development Corporation, et al. (D.C. Minn. 1963) CCH Fed. Sec. L. Rep. Par. 91,252, the court enjoined further violations of Rule 17d-1 (§ 270.17d-1), noting that where directors of an investment company follow the practice of investing in the portfolio companies "the continual danger of conflicts of interest * * * seems apparent." The Commission believes that it is necessary and appropriate for the protection of investors and in the public interest to require applications to be filed with the Commission so that it may consider situations where a significant conflict of interest occurs with respect to ownership of portfolio investments by the investment company and its affiliated persons.

The proposed revision (§ 270.17d-1) is intended to provide more precise standards for the determination whether and when an application must be filed. Under the present rule (§ 270.17d-1), it is in some circumstances unclear whether an application should or should not be filed, and a considerable amount of the staff's time is absorbed in assisting registered companies and their affiliates to determine the applicability of the filing requirement, apart from any determination of approval or disapproval on the merits.

The proposed revision (§ 270.17d-1) is not designed to regulate every conceivable practice by which affiliated persons gain personal advantage by reason of their inside position to the detriment of the investment company and its security holders. The Commission has instructed its staff to consider the adoption of additional rules under section 17(d) of the Act dealing with certain other practices or arrangements by which affiliated persons may exact compensation or other benefits as a result of the investment activities of the registered investment company or its controlled company. Any such rules would be intended to afford investors additional necessary protections by prohibiting affiliated persons from causing the investment company either to act or to refrain from acting in order to advance the personal interests of the affiliated persons to the detriment of the company.

Paragraph (a) of proposed revised Rule 17d-1 (§ 270.17d-1) would make it unlawful for affiliated persons to participate in or effect any transaction in which the registered investment company or its controlled company is also a joint or a joint and several participant unless the proposed transaction has been approved by the Commission.

Paragraph (b) states the standards the Commission will apply in considering applications—whether the participation of the registered investment company or its controlled company in the proposed transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. This pargaraph retains the standards in the present rule (§ 270.17d-1).

Paragraph (c) of the proposed revision (§ 270.17d-1) makes explicit what is presently implicit in Rule 17d-1 (§ 270.17d-1). It makes clear that in granting applications the Commission may impose appropriate conditions if such conditions are necessary or appropriate in the public interest or for the protection of investors. Among the conditions which the Commission may impose are those relating to the manner in which disposition will be made of the securities or interests in a business or property proposed to be acquired. For example, applicants who are requesting the Commission to approve the acquisition of securities by an affiliated person and the investment company should be prepared to satisfy

the Commission, among other things, that the securities will not be disposed of by the affiliated person in circumstances which result in detriment to the registered investment company.

Paragraph (d) sets forth a special definition of "affiliated person" that is consistent with, but not identical to, the statutory definition of "affiliated person" in section 2(a)(3) of the Act. To avoid unnecessary repetition in the proposed revision, whenever the term "affiliated person" is used in the proposed revised rule (§ 270.17d–1), it includes a principal underwriter for an investment company and an affiliated person of an affiliated person or of a principal underwriter. Paragraph (d), however, excludes four categories of persons from the term affiliated person as used in the proposed revision (§ 270.17d–1).

The first category excluded is a company of the character described in section 12(d)(3) (A) and (B) of the Act, since such company is specifically excepted by section 17(d) of the Act.

The second category of persons excluded encompasses certain affiliated persons of an affiliated person of an investment company who are clearly not in a position to make or influence the investment decisions of the investment company. From time to time situations arise in which an investment company owns 5 per centum or more of the outstanding voting securities of a company and another person, wholly unrelated to the investment company, also owns 5 per centum or more of the outstanding voting securities of such portfolio company. Under the Act, such a person is an affiliated person of an affiliated person (i.e., the portfolio company) of an investment company. However, such a person would ordinarily not be in a position to influence the investment company to effect a transaction to his advantage unless he occupied some other relationship. Because no conflict of interest arises from the mere fact of stock ownership in such situations, this category of persons is eliminated from the term "affiliated person" for purposes of the proposed revision (§ 270.17d–1). Also eliminated for the same reason—i.e., because generally not being in a position to influence investment decisions of the investment company—are officers, directors, and employees of the portfolio company so long as such positions constitute their sole relationship to the investment company. But if the investment company controls the portfolio company, each of the above four classes of persons would not be excluded because the likelihood of a direct association with the investment company is increased.

The third category of persons excluded from the term "affiliated person" comprises certain employees, other than officers, of an investment adviser of or principal underwriter for a registered investment company. The advisory and underwriting organization may have many employees who have no association with the services rendered by their company to the registered investment company. Accordingly, paragraph (d)(3) eliminates such persons from the term "affiliated person."

The fourth exclusion from the term "affiliated person" relates to any investment company which is an affiliated person of another investment company solely because such companies are under the common control of the same investment adviser. Where two such investment companies acquire or hold a significant amount of stock of the same issuer, it may be that the investment companies are joint participants in a transaction within the meaning of the proposed revision. In such a situation the Commission believes that scrutiny by it is unnecessary. Of course, if the investment adviser which controls such companies were to engage in certain activities that advantaged one company to the detriment of another, he might be engaged in a breach of his fiduciary obligations wholly apart from section 17(d) of the Act, and those obligations would not be diminished by this rule's definitional exclusion.

In addition, if the investment adviser or any affiliated person of the investment adviser or of the investment company involved holds or acquires securities of the same issuer, this exclusion would not apply to such person. The only person excluded by this paragraph is an investment company and then only from the term "affiliated person." Thus, there could be situations where investment companies under common control are acquiring securities of the same issuer and an application is required to be filed because of the holdings of other affiliated persons.

Paragraph (e) of the proposed revision (§ 270.17d–1) describes the circumstances under which the registered investment company or its controlled company becomes a joint or a joint and several participant in a transaction involving an affiliated person, requiring that an application be filed.

The first such situation arises when an affiliated person or persons acquire or hold in the aggregate 2 per centum or more of any class or outstanding securities of an issuer, and the registered or controlled company acquires or holds any securities of the same issuer. A second situation is where the registered or controlled company acquires or holds 2 per centum or more of any class of outstanding securities of an issuer, and an affiliated person acquires or holds any securities of the same issuer. A third situation is where the registered or controlled company acquires or holds 2 per centum or more of the value of its net assets in the securities of an issuer, and an affiliated person acquires or holds any securities of the same issuer. The acquisitions and holdings of all investment companies having the same investment adviser are aggregated to compute the 2 per centum tests. In addition, in order to cover transactions involving investments other than securities, the same 2 per centum tests in each situation apply to an "interest in a business or property."

A fourth situation covered by the proposed revised rule (§ 270.17d–1) is described in paragraph (e)(3). This subparagraph deems a registered investment company or its controlled company to be a participant in a transaction requiring Commission approval when an affiliated person of the investment company participates in any profit-sharing, bonus, stock purchase, or other special remuneration plan or arrangement provided by the registered or a controlled company.

Paragraph (f) of the proposed revision (§ 270.17d–1) excludes certain transactions which the Commission believes do not require scrutiny in an application procedure. Paragraphs (f)(1) and (2) exclude certain plans covered by paragraph (e)(3). Thus, if any controlled company which is not an investment company has a profit-sharing plan for its officers or employees, no application need be filed as long as no director, officer, employee or controlling person of the investment company, its investment adviser or principal underwriter participates in the profit-sharing plan. Also excluded are plans provided by any registered or controlled company for its officers or employees which have been qualified under section 401 of the Internal Revenue Code of 1954 if all contributions paid under such plans by the employer qualify as deductible under section 404 of the Code.

Paragraph (f)(3) in the proposed revised rule (§ 270.17d–1) carries forward an exemption for situations where a bank and a small business investment company may be participating in a joint investment. Finally, paragraph (f)(4) excludes any transaction exempted under Rule 17a–6 (§ 270.17a–6). Rule 17a–6 (§ 270.17a–6) was promulgated in order to relieve persons from filing applications in those situations where there was no likelihood of overreaching by affiliated persons and therefore it would be unnecessary to pass upon a transaction already exempted under Rule 17a–6 (§ 270.17a–6) on this basis.

Under the proposed revision of the rule (§270.17d–1), a violation occurs when either the investment company or an affiliated person, without Commission approval, effects a transaction which establishes a joint participation or involves an existing joint participation. Thus, for example, where an investment company holds less than 2 per centum of any class of outstanding securities of an issuer and such holding does not amount to 2 per centum or more of the value of the investment company's net assets, affiliated persons in the aggregate may hold 1.9 per centum of any class of outstanding securities of the same issuer. However, if one affiliated person intends to acquire more securities of the same issuer which would result in affiliated persons in the aggregate holding 2 per centum or more, an application would have to be filed and approval granted before the securities could be acquired But the affiliated persons holding in the aggregate 1.9 per centum of the outstanding securities would not violate the

revised rule (§ 270.17d–1) until any of them attempted to sell their stock or until any of them caused the investment company to effect a transaction in the security. On the other hand, the one affiliated person acquiring the stock which makes the aggregate holding exceed 2 per centum would violate the proposed revised rule (§ 270.17d–1) at the time of such acquisition unless Commission approval were obtained.

Since none of the affiliated persons holding the 1.9 per centum of the securities would be in violation of the proposed revised rule (§ 270.17d–1) until he sold his shares without prior approval of the Commission, these affiliated persons would not be required to join in any application covering the acquisition which causes the aggregate holding by affiliated persons to exceed the 2 per centum standard. However, to facilitate Commission consideration of the transactions subject to the rule (§ 270.17d–1) and to avoid affiliated persons being required to file numerous individual applications each time they may wish to sell all or a portion of their holdings, a single application may be filed covering the securities of the particular portfolio company held in the aggregate by affiliated persons. The same procedure may be followed in a situation where affiliated persons hold more than 2 per centum of the outstanding securities of an issuer and the investment company proposes to acquire stock of the same issuer. Affiliated persons would be causing the investment company to acquire the stock and therefore they would be effecting a transaction. The application should be filed covering the aggregate holdings of the affiliated persons prior to the acquisition by the investment company.

However, increases in market value of a portfolio stock which might cause the investment company's holding to exceed 2 per centum of the value of its net assets need not occasion the filing of an application. Such market action would not constitute effecting a transaction. On the other hand, if an affiliated person intended to dispose of securities at the time when the investment company's holding had risen above 2 per centum of its net asset value merely by reason of market fluctuation, an application would be required. This is because the affiliated person was effecting a transaction (i.e., selling stock of a portfolio company) at a time when a joint participation existed.

The text of proposed revised Rule 17d–1 (§ 270.17d–1) reads as follows:

§ 270.17d–1 Applications regarding transactions in which investment companies participate with affiliated persons.

(a) *Application required.* It shall be unlawful for any affiliated person of a registered investment company to participate in or effect any transaction in which any such registered company, or a company controlled by such registered company, is a joint or a joint and several participant with such affiliated person, unless upon application the Commission has by order approved the transaction.

(b) *Standards for approval.* In determining whether to approve or disapprove an application under paragraph (a) of this section and whether to impose conditions as provided in paragraph (c) of this section, the Commission will consider whether the participation of such registered or controlled company in the proposed transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

(c) *Conditions imposed.* If necessary or appropriate in the public interest or for the protection of investors, an order under paragraph (a) of this section may be made upon appropriate conditions including conditions relating to the manner in which the securities or interests in a business or property may be disposed.

(d) *Affiliated person.* For the purposes of this section, affiliated person shall include a principal underwriter for a registered investment company and an affiliated person of an affiliated person or principal underwriter, but shall not include (1) a company of the character described in section 12(d)(3) (A) and (B) of the Act; (2) any person whose sole affiliation with the investment company arises from the fact that such person is an officer, director or employee of, or directly or indirectly owns, controls or holds with power to vote 5 per centum or more of the outstanding voting securities of, a noncontrolled company in which the registered company owns, controls or holds with power to vote 5 per centum or more of the outstanding voting securities; (3) any employee, other than officers, of the investment adviser of or principal underwriter for such registered company who does not participate in the services performed under the advisory and underwriting contracts; or (4) any investment company which is an affiliated person of another investment company solely because such companies are under common control of the same investment adviser.

(e) *Joint or joint and several participant.* Such registered or controlled company shall be deemed to be a joint or a joint and several participant in a transaction involving either an affiliated person or a registered or controlled company, or both, if:

(1) (i) An affiliated person or persons of such registered company acquire or hold in the aggregate, directly or indirectly, 2 per centum or more of any class of outstanding securities of an issuer or a 2 per centum or greater interest in a business or property, and (ii) such registered company, controlled company, or registered companies having the same investment adviser acquire or hold any securities of the same issuer or any interest in the same business or property; or

(2) (i) Such registered company, controlled company, or registered companies having the same investment adviser acquire or hold in the aggregate, directly or indirectly, (a) 2 per centum or more of any class of outstanding securities of an issuer or a 2 per centum or greater interest in a business or property, or (b) 2 per centum or more of the value of their net assets in the securities of an issuer or in an interest in a business or property, and (ii) an affiliated person or persons of any such registered company or companies acquire or hold in the aggregate, directly or indirectly, any securities of the same issuer or any interest in the same business or property; or

(3) Any affiliated person of such registered company participates in any profit-sharing, bonus, stock purchase, or other special remuneration plan or arrangement provided by such registered company or by any company controlled by such registered company.

(f) *Certain excluded transactions.* Notwithstanding the requirements of paragraph (a) of this section, no application need be filed pursuant thereto with respect to any of the following:

(1) Any profit-sharing plan provided by any controlled company which is not an investment company for its officers or employees, provided no director, officer, employee or controlling person of the investment company or its investment adviser or principal underwriter participates therein.

(2) Any plan provided by any registered investment company or any controlled company for its officers or employees if such plan has been qualified under section 401 of the Internal Revenue Code of 1954 and all contributions paid under said plan by the employer qualify as deductible under section 404 of said Code.

(3) Any loan or advance of credit to, or acquisition of securities or other property of, a small business concern, or any agreement to do any of the foregoing, made by a bank and a small business investment company (SBIC) licensed under the Small Business Investment Act of 1958, whether such transactions are contemporaneous or separated in time, where the bank is an affiliated person of the SBIC; but reports containing pertinent details as to such transactions shall be made at such time, on such forms and by such persons as the Commission may from time to time prescribe.

(4) Any transaction exempted under Rule 17a–6 (§ 270.17a–6).

(Secs. 6(c), 17(d), 38(a), 54 Stat. 800, 815, 841; 15 U.S.C. 80a–6, 80a–17, 80a–37)

All interested persons are invited to submit views and comments on proposed revised Rule 17d–1 (§ 270.17d–1). Written statements of views and comments in respect of the proposed revised rule (§ 270.17d–1) should be submitted to the Securities and Exchange Commission, Washington, D.C. 20549 on or before November 22, 1967. All such communications will be available for public inspection.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

OCTOBER 13, 1967.

[F.R. Doc. 67–12720; Filed, Oct. 27, 1967; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. AA-818]

ALASKA

Notice of Classification of Public Lands for Multiple Use Management

1. Pursuant to the Act of September 19, 1964 (78 Stat. 586; 43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2410 and 2411, the public lands described in paragraph 5 below, together with any lands that may become public lands in the future, are hereby classified for multiple use management. As used herein, "public lands" means any lands which are not withdrawn or reserved for a Federal use or purpose. Subject to valid existing rights, publication of this notice segregates the described lands from all forms of appropriation under the public land laws except as provided in paragraphs 2, 3, and 4.

2. All of the public lands described in paragraph 5 shall be subject to appropriation under the mining laws (30 U.S.C. 21) except:

a. Public lands lying within one-half mile of the line of mean high water of all lakes exceeding 40 acres in size and all islands situated therein,

b. Public lands lying within one-half mile inland of the line of mean high tide of Cook Inlet including all small Cook Inlet islands within 1 mile seaward of this line of MHT (but not including Chisik Island),

c. Public lands within one-quarter mile of the centerline of the existing Pile Bay—Iliamna Bay portage road.

3. All of the public lands described in paragraph 5 shall remain subject to the Mineral Leasing Laws of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181 et seq.), as amended; and the Materials Act of July 31, 1947 (61 Stat. 681), as amended; the Act of April 12, 1926 (44 Stat. 242); and section 11 of the Act of May 14, 1898 (30 Stat. 414).

4. The public lands in the following described areas shall remain subject to settlement by Natives of Alaska (Eskimos, Aleuts, and Indians) under the Native Allotment Act of May 17, 1906 (34 Stat. 197), as amended August 2, 1956 (70 Stat. 954; 48 U.S.C. 357, 357a, 357b), and subject to disposal under the Public Land Sales Act of September 19, 1964 (78 Stat. 988); to the Townsite Laws, both under the Act of March 3, 1891 (26 Stat. 1095, 1099), and the Act of May 25, 1926 (44 Stat. 629) as amended; to lease or sale both under the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741), and the Small Tract Act of June 1, 1938 (52 Stat. 741) as amended; and subject to selection by the State of Alaska under the community grant provisions of the Act of July 7, 1958 (72 Stat. 339, 340).

SEWARD MERIDIAN—UNSURVEYED

PROTRACTED DESCRIPTIONS

Kijik:
T. 2 N., R. 28 W.,
Secs. 5 and 6.
T. 3 N., R. 28 W.,
Secs. 29 to 32, inclusive.
T. 2 N., R. 29 W.,
Sec. 1.
T. 3 N., R. 29 W.,
Secs. 25 and 36.

All those portions lying above the line of mean high water of Lake Clark and north of the Kijik River.

Tanalian:
T. 1 N., R. 29 W.,
Secs. 3, 4, and 5;
Secs. 8 to 11, inclusive, and;
Secs. 14 to 18, inclusive.

All those portions lying above MHW of Lake Clark and south of the Tanalian River.

Chinitna:
T. 4 W., R. 22 W.,
Secs. 16 and 17;
Secs. 19 to 21, inclusive;
Secs. 30 and 31.

All those portions lying above and southerly of the line of mean high tide of Chinitna Bay.

Iniskin E.:
T. 5 W., R. 24 W.,
Secs. 14 to 17, inclusive;
Secs. 21 to 23, inclusive;
Secs. 26 to 28, inclusive.

All those portions above and easterly of the line of MHT of Iniskin Bay.

Iniskin W.:
T. 5 S., R. 25 W.,
Secs. 1 to 4, inclusive;
Secs. 11 to 13, inclusive;
Sec. 24.

All those portions above and west of the line of MHT of Iniskin Bay.

Pile and Pedro Bays:
T. 4 S., R. 27 W.,
Secs. 24 to 36, inclusive.
T. 5 W., R. 27 W.,
Secs. 3 and 4.
T. 4 S., R. 28 W.,
Sec. 19;
Secs. 25 to 36, inclusive.
T. 5 S., R. 28 W.,
Secs. 1 to 10, inclusive.
T. 5 S., R. 29 W.,
Secs. 1 to 5, inclusive;
Secs. 9 to 12, inclusive.

All those portions above and northerly of the line of MHW of Iliamna Lake, but excluding all islands.

Iliamna-Cottonwood Bays:
T. 6 S., R. 26 W.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 20 to 29, inclusive;
Secs. 32 to 36, inclusive.

All those portions above MHT of Iliamna and Cottonwood Bays.

Sid Larcon Bay:
T. 9 S., R. 31 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 18, inclusive.

All those portions above MHW of Iliamna Lake.

Kokhanok:
T. 8 S., R. 32 W.,
Secs. 29 to 36, inclusive.

All those portions above MHW of Iliamna Lake.

Iliamna-Newhalen:
T. 4 S., R. 33 W.,
All that portion lying east of Newhalen River.
T. 5 S., R. 33 W.,
All that portion lying westerly and above the MHW line of Iliamna Lake.

Igiugig:
T. 10 S., R. 39 W.,
Secs. 5 to 9, inclusive;
Secs. 16 to 18, inclusive.

All those portions above MHW of Iliamna Lake.

The areas described above, including both public and nonpublic lands, aggregate approximately 89,200 acres.

5. The public lands hereby classified are located within the following described area and are shown on maps on file in the Anchorage District Office, 4700 East 72d Street, Anchorage, Alaska 99502, and the Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska 99501.

SEWARD MERIDIAN—UNSURVEYED

PROTRACTED DESCRIPTIONS

T. 3 N., R. 17 W.
Tps. 2 and 3 N., R. 18 W.
Tps. 4 to 7 N., R. 18 W., W½.
T. 8 N., R. 18 W., SW¼.
Tps. 2 to 8 N., R. 19 W.
Tps. 1 to 8 N., Rs. 20 to 27 W.
Tps. 1 to 6 N., Rs. 28 and 29 W.
Tps. 1 to 4 N., Rs. 30 to 33 W.
Tps. 1 to 3 N., Rs. 34 and 35 W.
Tps. 1 and 2 S., R. 19 W.
Tps. 1 to 3 S., Rs. 20 and 21 W.
Tps. 1 to 6 S., Rs. 22 to 24 W. (partially surveyed)
Tps. 1 to 7 S., R. 25 W.
Tps. 1 to 9 S., R. 26 W.
T. 14 S., R. 26 W.
Tps. 1 to 9 S., R. 27 W.
Tps. 14 to 16 S., R. 27 W.
Tps. 1 to 10 S., R. 28 W.
Tps. 14 to 16 S., R. 28 W.
Tps. 1 to 11 S., Rs. 29 and 30 W.
Tps. 14 to 17 S., Rs. 29 and 30 W.
Tps. 1 to 12 S., R. 31 W.
Tps. 14 to 17 S., R. 31 W.
Tps. 1 to 12 S., R. 32 W.
Tps. 15 to 17 S., R. 32 W.
Tps. 1 to 17 S., Rs. 33 to 36 W.
Tps. 5 to 16 S., Rs. 37 and 38 W.
Tps. 5 to 15 S., R. 39 W.
Tps. 9 to 12 S., R. 40 W., E½.
Tps. 13 to 15 S., R. 40 W.

The area classified aggregates approximately 6,552,000 acres.

6. Both adverse and favorable comments were received during a 75-day period following publication of a notice of proposed classification (32 F.R. 3838) on March 8, 1967.

Numerous informal meetings were held at various locations, culminating in a formal public hearing at King Salmon, Alaska, on May 2, 1967. The record showing the comments received, a transcript of the formal hearing, and other information is on file and can be examined in the Anchorage District Office and the Anchorage Land Office as previously cited in paragraph 5. The bulk of these comments were favorable or in the form of constructive criticism. Several of these comments have been incorporated in the foregoing notice of classification and reflect modifications from the proposed classification previously published. Paragraphs 1, 2b, and the 5th and 6th items of the description in paragraph 5, reflect minor changes intended to clarify or correct small errors in the proposed version. Paragraph 4, relating to disposal areas, was modified to include a provision for lease and sale under the Small Tract Act and for State of Alaska community grant selections.

7. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided in 43 CFR 2411.2c.

BURTON W. SILCOCK,
State Director.

[F.R. Doc. 67-12719; Filed, Oct. 27, 1967; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 238]

NOLAN SHIPPING CO.

Order of Revocation

Whereas, on August 15, 1967, the Continental National American Group notified the Commission that Independent Ocean Freight Forwarder Surety Bond No. 905131 underwritten in behalf of W. A. Nolan, doing business as Nolan Shipping Co., 342 International Trade Mart, New Orleans, La. 70112, would be canceled effective October 23, 1967, and

Whereas, W. A. Nolan, doing business as Nolan Shipping Co. was notified that unless a new surety bond was submitted to the Commission on or before October 20, 1967, its Independent Ocean Freight Forwarder License No. 238 would be revoked effective October 23, 1967, pursuant to General Order 4, Amendment 12 (46 CFR 510.9) and;

Whereas, W. A. Nolan, doing business as Nolan Shipping Co. has failed to submit a valid surety bond to comply with the above Commission rule:

It is ordered, That the Independent Ocean Freight Forwarder License No. 238 of W. A. Nolan, doing business as Nolan Shipping Co. be and is hereby revoked effective October 23, 1967.

It is further ordered, That Independent Ocean Freight Forwarder License No. 238 be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

LEROY F. FULLER,
Acting Director,
Bureau of Domestic Regulation.

[F.R. Doc. 67-12725; Filed, Oct. 27, 1967; 8:46 a.m.]

SOUTH AND EAST AFRICA RATE AGREEMENT COFFEE CONTRACT

Notice of Request for Permission To Amend Dual Rate Contract

Notice is hereby given that the following request has been filed with the Commission for approval pursuant to section 14b of the Shipping Act. 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the amended contract form at the Washington Office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the amended contract form including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the amended contract form (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of application to amend an approved dual rate contract filed by:

Mr. Richard Kinsella, South and East Africa Rate Agreement, 25 Broadway, New York, N.Y. 10004.

Notice is hereby given that the member lines of the South and East Africa Rate Agreement have filed with the Commission pursuant to section 14b of the Shipping Act, 1916, a request for permission to amend the approved dual rate contract covering the carriage of coffee from ports in South and East Africa to U.S. Atlantic and Gulf Ports. The amendment adds the words "except in cases where the withdrawing carrier is terminating service" to the first sentence of Article 12 so that this sentence will read "This agreement shall terminate upon the withdrawal of any carrier from this conference except in cases where the withdrawing carrier is terminating service." Also, the reference to outbound traffic in Article 14, "Arbitration", is being changed to inbound traffic to conform this provision with the balance of the contract.

Dated: October 24, 1967.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 67-12726; Filed, Oct. 27, 1967; 8:46 a.m.]

DEPARTMENT OF STATE

[Public Notice 280]

CONTINENTAL PIPE LINE CO.

Application for Presidential Permit

On May 20, 1967, the Department of State announced receipt of an application, dated April 18, 1967, from the Continental Pipe Line Co., a Delaware corporation, for a Presidential Permit to construct, operate, and maintain a pipeline for crude oil at the international boundary line between the United States and Canada, between Glacier County, Mont., and Alberta, Canada.

Notice is hereby given that said permit was granted by the President on October 12, 1967.

For the Secretary of State.

MURRAY J. BELMAN,
Deputy Legal Adviser.

OCTOBER 20, 1967.

[F.R. Doc. 67-12730; Filed, Oct 27, 1967; 8:46 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ACTING ASSISTANT REGIONAL ADMINISTRATOR FOR ADMINISTRATION, REGION IV (CHICAGO)

Designation

The officers appointed to the following listed positions in Region IV (Chicago) are hereby designated to serve as Acting Assistant Regional Administrator for Administration, Region IV, during the absence of both the Assistant Regional Administrator and the Deputy Assistant Regional Administrator for Administration, with all the powers, functions, and duties redelegated or assigned to both the Assistant Regional Administrator and the Deputy Assistant Regional Administrator for Administration: *Provided,* That no officer is authorized to serve as Acting Assistant Regional Administrator for Administration unless all officers whose titles precede his in this designation are unable to act by reason of absence:

1. Chief, Accounting Branch.
2. Chief, Budget and Management Branch.

(Delegation May 4, 1962, 27 F.R. 4319; Interim Order II, 31 F.R. 815, Jan. 21, 1966)

This designation shall be effective as of September 27, 1967.

FRANCIS D. FISHER,
Regional Administrator,
Region IV.

[F.R. Doc. 67-12727; Filed, Oct. 27, 1967; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CI68-321, etc.]

OKMAR OIL CO. ET AL.

Notice of Applications [1]

OCTOBER 18, 1967.

Take notice that Cabot Corp. (GLC), Post Office Box 1101, Pampa, Tex. 79065, has filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and the delivery on a gas-for-gas exchange basis of natural gas to Consolidated Gas Supply Corp. (Consolidated). All gas will be delivered by Cabot Corp. to Consolidated in Calhoun County, W. Va. Exchange gas will be delivered by Consolidated to Cabot Corp. in Pleasants County, W. Va. Gas delivered by Cabot Corp. will be from its own production and will also be purchased by Cabot Corp. from other producers. Take further notice that each of the latter producers, c/o J. Edward Litz, Esq., Post Office Box 1473, Charleston, W. Va. 25325, has filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to Cabot Corp. The proposals of Cabot Corp. and the other producers are more fully set forth in the applications which are on file with the Commission and open to public inspection.

Cabot Corp. states that the volume of gas to be sold to Consolidated will average not less than 1,000 Mcf per day and that the aggregate volume of gas to be sold and to be exchanged will not exceed 6,000 Mcf per day. Consolidated has filed a certificate application in Docket No. CP68-113 for authorization to transport and deliver gas to be sold and delivered to it by Cabot and for the facilities necessary therefor.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 13, 1967.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-321 A 9-26-67	Okmar Oil Co.	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-322 A 9-26-67	Gus Berry et al.	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-323 A 9-26-67	J. Brooks Bell et al.	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-324 A 9-26-67	Z. N. Connolly et al.	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-325 A 9-26-67	C. E. Malone, agent	do	17.5	15.325
CI68-326 A 9-26-67	B. A. Crowley	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-327 A 9-26-67	do	do	17.5	15.325
CI68-328 A 9-26-67	Calhoun County Bank	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-329 A 9-26-67	Southeastern Gas Co.	do	17.5	15.325
CI68-330 A 9-26-67	do	do	17.5	15.325
CI68-331 A 9-26-67	do	do	17.5	15.325
CI68-332 A 9-26-67	Calhoun County Bank	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-333 A 9-26-67	do	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-334 A 9-26-67	Gerwig & Koethe Oil & Gas Co.	do	17.5	15.325
CI68-335 A 9-26-67	B. A. Crowley et al.	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-336 A 9-26-67	Southeastern Gas Co.	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-337 A 9-26-67	do	do	17.5	15.325
CI68-338 A 9-26-67	Mt. Iron & Supply Co.	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-339 A 9-26-67	Bell Oil & Gas Co.	do	17.5	15.325
CI68-340 A 9-26-67	Mary Osborne Gas Co.	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-341 A 9-26-67	John R. Morris, agent for Nobe Oil & Gas.	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-342 A 9-26-67	C. H. Gunn, agent	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-343 A 9-26-67	Conservation Oil & Gas	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-344 A 9-26-67	do	do	17.5	15.325
CI68-345 A 9-26-67	Elias Floyd Fox	do	17.5	15.325
CI68-346 A 9-26-67	L. C. Foreman et al.	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-347 A 9-26-67	William Shepard, agent for Stonestreet Lands Co.	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-348 A 9-26-67	C. H. Gunn	do	17.5	15.325
CI68-349 A 9-26-67	W. F. Roberts Gas Co.	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-350 A 9-26-67	Walter E. Smith et al	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-351 A 9-26-67	do	do	17.5	15.325
CI68-352 A 9-26-67	do	do	17.5	15.325
CI68-353 A 9-26-67	do	do	17.5	15.325
CI68-354 A 9-26-67	Kewanee Oil Co.	do	17.5	15.325
CI68-355 A 9-26-67	Okmar Oil Co.	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-356 A 9-26-67	L. B. Carroll et al.	do	17.5	15.325
CI68-357 A 9-26-67	C. F. Engel et al.	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-358 A 9-26-67	J. Howard Smith et al.	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-359 A 9-26-67	Eastern Exploration & Development Co.	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-360 A 9-26-67	do	do	17.5	15.325
CI68-361 A 9-26-67	Southeastern Gas Co	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-362 A 9-26-67	do	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-363 A 9-26-67	Hughart Stump	Cabot Corp., Sherman District, Calhoun County W. Va.	17.5	15.325
CI68-364 A 9-26-67	Calhoun County Bank, agent for Creed Barker.	do	17.5	15.325
CI68-365 A 9-26-67	Mrs. Jane W. Kingsbury, agent	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-366 A 9-26-67	Okmar Oil Co	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-367 A 9-26-67	Calhoun County Bank, agent	do	17.5	15.325
CI68-368 A 9-26-67	Gus Berry et al	do	17.5	15.325
CI68-369 A 9-26-67	P. P. Gunn	do	17.5	15.325
CI68-370 A 9-26-67	J. F. Gainer Gas Co	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-371 A 9-26-67	F. H. Bickel	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-372 A 9-26-67	Crabbe Oil & Gas Co	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-373 A 9-26-67	Physicians Oil & Gas	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-374 A 9-26-67	D. R. Fowler	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-375 A 9-26-67	Shroyer Oil Co	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-376 A 9-26-67	Calhoun County Bank, agent	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-377 A 9-26-67	Eastern Exploration & Development Co.	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-378 A 9-26-67	Calhoun County Bank, agent for A. Rothwell.	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-379 A 9-26-67	Traders Trust & Banking Co., agent, E. D. Norman.	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-380 A 9-26-67	Knotts Gas Co	Cabot Corp., Washington District, Calhoun County, W. Va.	17.5	15.325
CI68-381 A 9-26-67	Gill Oil & Gas Co	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-382 A 9-26-67	H. W. Stump	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-383 A 9-26-67	Calhoun County Bank, agent	do	17.5	15.325
CI68-384 A 9-26-67	Calhoun County Bank, agent for E. L. Buch et al.	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-385 A 9-26-67	Cox Oil & Gas Co	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-386 A 9-26-67	Hays & Co., agent for Grant Fowler.	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-387 A 9-26-67	Calhoun County Bank, agent	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-388 A 9-26-67	J. H. Ferrell & L. Cain	do	17.5	15.325
CI68-389 A 9-26-67	M. G. Drake Gas Co	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-390 A 9-26-67	Drake Oil & Gas Co	do	17.5	15.325
CI68-391 A 9-26-67	Calhoun County Bank, agent	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-392 A 9-26-67	Charles W. Cunningham	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-393 A 9-26-67	Okmar Oil Co	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-394 A 9-26-67	Steer Creek Oil & Gas Co	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-395 A 9-26-67	Calhoun County Bank	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-396 A 9-26-67	Earl Knotts	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-397 A 9-26-67	Traders Trust & Banking	Cabot Corp., Washington District, Calhoun County, W. Va.	17.5	15.325
CI68-398 A 9-26-67	Morley Oil & Gas Co	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-399 A 9-26-67	Traders Trust & Banking Co	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-400 A 9-26-67	Calhoun County Bank	do	17.5	15.325
CI68-401 A 9-26-67	Okmar Oil Co	do	17.5	15.325
CI68-402 A 9-26-67	Calhoun County Bank	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-403 A 9-26-67	Roane County Bank, agent	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-404 A 9-26-67	Thomas J. Davis Estate	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-405 A 9-26-67	Calhoun County Bank	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-406 A 9-26-67	Gainer & Gunn	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-407 A 9-26-67	Kewanee Oil Co	do	17.5	15.325
CI68-408 A 9-26-67	Calhoun County Bank	do	17.5	15.325
CI68-409 A 9-26-67	W. B. Cunningham Gas Co	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-410 A 9-26-67	Calhoun County Bank	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-411 A 9-26-67	do	do	17.5	15.325
CI68-412 A 9-26-67	L. W. Cunningham Gas Co	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-413 A 9-26-67	T. V. Cunningham Gas Co	do	17.5	15.325
CI68-414 A 9-26-67	Calhoun County Bank	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-415 A 9-26-67	do	do	17.5	15.325
CI68-416 A 9-26-67	Virgil E. Daugherty, agent, Traders Trust & Banking Co.	Cabot Corp., Washington District, Calhoun County, W. Va.	17.5	15.325
CI68-417 A 9-26-67	Barnes Oil & Gas Co	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-418 A 9-26-67	Calhoun County Bank	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-419 A 9-26-67	Van Camp Oil & Gas Co	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-420 A 9-26-67	Walter E. Smith, et al	do	17.5	15.325
CI68-421 A 9-26-67	Calhoun County Bank	do	17.5	15.325
CI68-422 A 9-26-67	Boyd Wright, agent	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-423 A 9-26-67	Calhoun County Bank	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-424 A 9-26-67	Middle Run Oil & Gas Co	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-425 A 9-26-67	Okmar Oil Co	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-426 A 9-26-67	Walter E. Smith, agent for Grantsville Oil & Gas.	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-427 A 9-26-67	Roane County Bank, agent	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-428 A 9-26-67	Creed Barker	do	17.5	15.325
CI68-429 A 9-26-67	James J. Gill	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-430 A 9-26-67	E. A. Dawson	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-431 A 9-26-67	E. A. Dawson, agent for Creed Barker et al.	Cabot Corp., Center District, Gilmer County, W. Va.	17.5	15.325
CI68-432 A 9-26-67	Va Roy Hildreth	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-433 A 9-26-67	Phillip Lemon, agent	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-434 A 9-26-67	Emmett Cronin, agent for White Rock Oil & Gas Co.	do	17.5	15.325
CI68-435 A 9-26-67	O. D. Smith	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-436 A 9-26-67	I. D. Fowler, agent for Fowler Gas Co.	do	17.5	15.325
CI68-437 A 9-26-67	O. D. Smith	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-438 A 9-26-67	H. M. Deem, agent for Grass Run Oil & Gas Co.	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-439 A 9-26-67	Walter E. Smith et al	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-440 A 9-26-67	O. D. Smith	Cabot Corp., Burning Springs District, Wirt County, W. Va.	17.5	15.325
CI68-441 A 9-26-67	I. D. Fowler, agent for Fowler Gas Co.	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-442 A 9-26-67	do	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-443 A 9-26-67	E. M. and W. E. Smith	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-444 A 9-26-67	O. D. Smith	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-445 A 9-26-67	do	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-446 A 9-26-67	W. E. Smith et al	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-447 A 9-26-67	Grant Fowler, agent	do	17.5	15.325
CI68-448 A 9-26-67	I. D. Fowler, agent for Fowler Gas Co.	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-449 A 9-26-67	P. P. Gunn et al	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-450 A 9-26-67	I. D. Fowler, agent for Fowler Gas Co.	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-451 A 9-26-67	D. L. Gainer, agent	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-452 A 9-26-67	C. W. Beecher, agent	Cabot Corp., Lee District, Calhoun County, W. Va.	17.5	15.325
CI68-453 A 9-26-67	Paul Fleming et al., d.b.a. Fleming Oil & Gas Co.	Cabot Corp., Washington District, Calhoun County, W. Va.	17.5	15.325
CI68-454 A 9-26-67	Grant Fowler	Cabot Corp., De Kalb District, Gilmer County, W. Va.	17.5	15.325
CI68-455 A 9-26-67	Clarence Mazo	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-456 A 9-26-67	E. M. & W. E. Smith	do	17.5	15.325
CI68-457 A 9-26-67	P. P. Gunn	Cabot Corp., Murphy District, Ritchie County, W. Va.	17.5	15.325
CI68-458 A 9-26-67	Wilcox-Henry, a partnership	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-459 A 9-26-67	Warder E. Stump, Jr., agent	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-460 A 9-26-67	Stanley Martin	do	17.5	15.325
CI68-461 A 9-26-67	C. C. & P. P. Gunn	do	17.5	15.325
CI68-462 A 9-26-67	G. W. Deck	do	17.5	15.325
CI68-463 A 9-26-67	E. M. and W. E. Smith	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325
CI68-464 A 9-26-67	do	Cabot Corp., Washington District, Calhoun County, W. Va.	17.5	15.325
CI68-465 A 9-26-67	Fleming Oil & Gas Co	do	17.5	15.325
CI68-466 A 9-26-67	Pennzoil Co	Cabot Corp., Spencer District, Roane County, W. Va.	17.5	15.325
CI68-467 A 9-26-67	Stump Oil & Gas Co	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-468 A 9-26-67	Calhoun County Bank, agent for James M. McCoy, et al.	do	17.5	15.325
CI68-469 A 9-26-67	E. M. & W. E. Smith	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-470 A 9-26-67	Stump Oil & Gas Co	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-471 A 9-26-67	E. M. & W. E. Smith	Cabot Corp., Sheridan District, Calhoun County, W. Va.	17.5	15.325
CI68-472 A 9-26-67	G. G. Fowler and H. W. Stump.	Cabot Corp., Sherman District, Calhoun County, W. Va.	17.5	15.325
CI68-473 A 9-26-67	Wirt County Bank	Cabot Corp., Burning Springs District, Wirt County, W. Va.	17.5	15.325
CI68-474 A 9-26-67	Helen Vincent, agent	do	17.5	15.325
CI68-475 A 9-26-67	Charles E. Young	do	17.5	15.325
CI68-476 A 9-26-67	A. A. Pursly	Cabot Corp., Reedy District, Wirt County, W. Va.	17.5	15.325
CI68-477 A 9-26-67	Bear Run Oil & Gas Co	do	17.5	15.325
CI68-478 A 9-26-67	C. I. West Virginia Corp	Cabot Corp., Burning Springs District, Wirt County, W. Va.	17.5	15.325
CI68-479 A 9-26-67	do	Cabot Corp., Elizabeth District, Wirt County, W. Va.	25.0	15.325
CI68-480 A 9-26-67	Seneca Oil Co	Cabot Corp., Reedy District, Wirt County, W. Va.	17.5	15.325
CI68-481 A 9-26-67	James A. McCoy, agent for O. D. Smith and David Law.	Cabot Corp., Spring Creek District, Wirt County, W. Va.	17.5	15.325
CI68-482 A 9-26-67	Southwestern Development Co.	Cabot Corp., Burning Springs District, Wirt County, W. Va.	17.5	15.325
CI68-483 A 9-26-67	James A. McCoy, agent	Cabot Corp., Springs Creek District, Wirt County, W. Va.	17.5	15.325
CI68-484 A 9-26-67	Hudson Ohio Oil Co	Cabot Corp., Reedy District, Wirt County, W. Va.	17.5	15.325
CI68-485 A 9-26-67	do	Cabot Corp., Spring Fork District, Wirt County, W. Va.	17.5	15.325
CI68-486 A 9-26-67	A. A. Pursly (successor to George Moses and Reeves Lewenthal).	Cabot Corp., Spring Creek District, Wirt County, W. Va.	17.5	15.325
CI68-487 A 9-26-67	Noble Busch, agent	Cabot Corp., Burning Springs District, Wirt County, W. Va.	17.2	15.325
CI68-488 A 9-26-67	Carl E. Smith, Inc	do	17.5	15.325
CI68-489 A 9-26-67	Cumberland Gas Co	Cabot Corp., Union and Poca Districts, Kanawha and Putnam Counties, W. Va.	18.312	15.325
CI68-490 A 9-26-67	Mrs. Leonore B. Sample (successor to O. L. Sample).	Cabot Corp., Union District, Putnam County, W. Va.	15.0	15.325
CI68-491 A 9-26-67	do	Cabot Corp., Poca District, Putnam County, W. Va.	15.0	15.325
CI68-492 A 9-26-67	Cabot Corp. (GLO)	Consolidated Gas Supply Corp., acreage in Calhoun County, W. Va.	20.231	14.9
CI68-514 A 10-3-67	E. M. & W. E. Smith	Cabot Corp., Center District, Calhoun County, W. Va.	17.5	15.325

[F.R. Doc. 67-12542; Filed, Oct. 27, 1967; 8:45 a.m.]

[Docket No. RI68–197, etc.]

H. L. HAWKINS ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 20, 1967.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 6, 1967.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI68-197	H. L. Hawkins and H. L. Hawkins, Jr., Suite 2703, 225 Baronne St., New Orleans, La., 70112.	[2] 16	3	Texas Gas Transmission Corp. (Midland Field, Acadia Parish, La.) (South Louisiana).	$1,765	9-26-67	[3] 10-27-67	[4] 10-28-67	[7] [8] 19.5	[5] [6] [7] 20.5	
RI68-198	Pan American Petroleum Corp., Post Office Box 591, Tulsa Okla. 74102, Attn: J. P. Hammond, General Attorney.	164	[11] 9	Mobil Oil Corp. (Hugoton Field, Grant County, Kans.).	461	9-29-67	[3] 10-30-67	[4] 10-31-67	11.0	[9] [10] 12.5	
	do	467	4	Southern Union Gathering Co. (Aztec Pictured Cliffs Field, San Juan County, N. Mex.) (San Juan Basin Area).	41	9-22-67	[3] 10-23-67	[4] 10-24-67	12.0	[6] [13] 12.2295	
RI68-199	Harper Oil Co. (Operator) et al., 904 Hightower Bldg., Oklahoma City, Okla. 73102.	35	1	Michigan Wisconsin Pipe Line Co (Laverne Field, Harper County, Okla.) (Panhandle Area).	32	9-25-67	[12] 10-26-67	[4] 10-27-67	[15] [16] 18.62	[13] [14] [15] [16] 18.635	
	do	22	6	Arkansas Louisiana Gas Co. (Cement Field, Grady County, Okla.) (Oklahoma "Other" Area).	3	9-29-67	[12] 10-30-67	[4] 10-31-67	[17] 15.0	[13] [14] [17] 15.015	RI62-315.
	do	18	2	El Paso Natural Gas Co. (Beckham County, Okla.) (Oklahoma "Other" Area).	16	9-28-67	[12] 10-29-67	[4] 10-30-67	13.0	[10] [14] 13.015	
	do	32	8	Arkansas Louisiana Gas Co. (Drummond Area, Garfield and Major Counties, Okla.) (Oklahoma "Other" Area).	152	9-29-67	[12] 10-30-67	[4] 10-31-67	16.8	[10] [14] 16.015	RI65-295.
	do	20	2	Colorado Interstate Gas Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	14	10- 2-67	[12] 11- 2-67	[4] 11- 3-67	[18] 18.1	[13] [14] [18] 18.1015	RI63-69.
RI68-200	Harper Oil Co	34	1	Michigan Wisconsin Pipe Line Co. (Laverne Field, Harper County, Okla.) (Panhandle Area).	3	9-25-67	[12] 10-26-67	[4] 10-27-67	[15] [19] 17.66	[13] [14] [15] [19] 17.675	
	do	7	2	Northern Natural Gas Co. (Mocane-Laverne Field, Beaver County, Okla.) (Panhandle Area).	27	9-25-67	[12] 10-26-67	[4] 10-27-67	[15] [20] 17.054	[13] [14] [15] [20] 17.064	RI65-300.
	do	9	2	El Paso Natural Gas Co. (Ridgeway Field, Beaver County, Okla.) (Panhandle Area).	7	9-29-67	[12] 10-30-67	[4] 10-31-67	17.0	[10] [14] 17.015	
	do	11	2	El Paso Natural Gas Co. (Beckham County, Okla.) (Oklahoma "Other" Area).	7	9-25-67	[12] 10-26-67	[4] 10-27-67	13.0	[10] [14] 13.015	RI63-262.
	do	6	3	Northern Natural Gas Co. (Mocane-Laverne Field, Beaver County, Okla.) (Panhandle Area).	14	9-25-67	[12] 10-26-67	[4] 10-27-67	[21] 18.632	[10] [14] [21] 18.642	RI67-188.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
	Harper Oil Co.	10	3	Panhandle Eastern Pipe Line Co. (Mocane-Laverne Field, Beaver County, Okla.) (Panhandle Area).	8	10-2-67	[11] 11-2-67	[4] 11-3-67	[12] 21.315	[13] [14] 21.330	RI63-276.
	do	15	2	Transwestern Pipeline Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	14	10-2-67	[11] 11-2-67	[4] 11-3-67	[12] 17.0	[13] [14] 17.0175	
	do	19	1	Panhandle Eastern Pipe Line Co. (Ferran Field, Beaver County, Okla.) (Panhandle Area).	1	10-2-67	[11] 11-2-67	[4] 11-3-67	17.0	[13] [14] 17.010	
	do	28	5	Transwestern Pipeline Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	3	10-2-67	[11] 11-2-67	[4] 11-3-67	[12] 17.0	[13] [14] 17.0175	
RI68-201	Harper Oil Co. et al.	17	4	do	34	9-22-67	[11] 10-23-67	[4] 10-31-67	[12] 17.0	[13] [14] 17.0175	
RI68-202	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	315	2	Northern Natural Gas Co. (Fort Supply Area, Dewey County, Okla.) (Oklahoma "Other" Area).	[25]	9-27-67	[11] 10-28-67	[4] 10-29-67	[12] [21] 15.0	[13] [14] 15.015	

[2] Contract executed after Sept. 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended.
[3] The stated effective date is the effective date requested by Respondent.
[4] The suspension period is limited to 1 day.
[5] Periodic rate increase.
[6] Pressure base is 15.025 p.s.i.a.
[7] Includes 1.75-cent tax reimbursement.
[8] Initial service rate certificated in Docket No. CI63-1399 by Commission order issued June 19, 1964.
[9] Renegotiated rate increase.
[10] Pressure base is 14.65 p.s.i.a.
[11] Includes letter agreement dated June 30, 1967, between Mobil and Pan Am, which provides for Pan Am to receive the same rate that Mobil receives from Cities Service Gas Co., to whom Mobil resells the gas, less a service charge of 2 cents for gathering and compression performed by Mobil, or any higher service charge that may be approved by the Commission at some future date, for the life of the contract. Filing also includes letter agreement dated May 17, 1966, between Mobil and Cities, which provides for Mobil to receive a rate of 12.5 cents plus a 2-cent gathering and compression charge for the 5-year period beginning June 17, 1966, and a 1-cent periodic increase for the succeeding 5-year period. Mobil has previously filed for its related 14.5-cent rate, inclusive of the 2-cent gathering and compression charge, and is presently collecting such rate under its Rate Schedule No. 3 subject to refund in Docket No. RI67-274.
[12] Tax reimbursement increase—75 percent of the full 2.55 percent New Mexico Emergency School Tax.
[13] The stated effective date is the first day after expiration of the statutory notice.
[14] Tax reimbursement increase.
[15] Subject to upward and downward B.t.u. adjustment.
[16] Includes base rate of 17 cents plus 1.62 cents upward B.t.u. adjustment which is based on 1/100 cent per Mcf for each B.t.u. cubic foot in excess of 1,000 B.t.u.'s (average B.t.u. content is 1,162 B.t.u.'s per cubic foot).
[17] Subject to a downward B.t.u. adjustment.
[18] Base price of 18.1 cents subject to a proportional downward B.t.u. adjustment from 1,133 B.t.u.'s per cubic foot. (B.t.u. content of gas is 1,120 B.t.u.'s per cubic foot.)
[19] Includes base rate of 17 cents plus 0.66 cent upward B.t.u. adjustment which is based on 1/100 cent per Mcf for each B.t.u. per cubic foot in excess of 1,000 B.t.u.'s. (Average B.t.u. content is 1,066 B.t.u.'s per cubic foot.)
[20] Includes base rate of 16 cents plus 1.624 cents upward B.t.u. adjustment.
[21] Includes base rate of 17 cents plus 1.632 cents upward B.t.u. adjustment (1,066 B.t.u.'s per cubic foot gas). Base rate subject to upward and downward B.t.u. adjustment.
[22] Includes base rate of 19.5 cents plus 1.815 cents upward B.t.u. adjustment (1,121 B.t.u. gas). Base rate subject to upward and downward B.t.u. adjustment.
[23] No current production.
[24] Applicable only to acreage from Dewey County, Okla. (Oklahoma "Other" Area).

Harper Oil Co., Harper Oil Co. (Operator), et al., and Harper Oil Co., et al. (all referred to herein as Harper) and Continental Oil Co.'s (Continental) proposed rate increases are for tax reimbursement only for the increase in the Oklahoma Excise Tax which became effective on July 1, 1967. Harper requests waiver of the statutory notice to permit their proposed tax filings to become effective on October 1, 1967. Continental requests waiver of the statutory notice to permit its proposed tax filing to become effective on July 1, 1967, the date the increased Oklahoma Excise Tax became effective. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Harper and Continental's rate filings and such requests are denied.

The contract related to the rate filing by H. L. Hawkins and H. L. Hawkins, Jr. (Hawkins) was executed subsequent to September 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed rate of 20.5 cents per Mcf exceeds the area increased rate ceiling of 14.0 cents per Mcf for South Louisiana but is below the initial service ceiling of 21.25 cents per Mcf for the area involved. We believe, in this situation, Hawkins' proposed rate filing should be suspended for 1 day from October 27, 1967, the proposed effective date.

Pan American Petroleum Corp. (Pam Am) proposes a renegotiated rate increase (Supplement No. 9 to Pan Am's FPC Gas Rate Schedule No. 164) for its sales of gas to Mobil Oil Corp. (Mobil). Mobil gathers and processes the gas and resells the residue gas under its FPC Gas Rate Schedule No. 3 to Cities Service Gas Co. Pan Am's proposed rate is related to Mobil's resale rate which is in effect subject to refund in Docket No. RI67-274. The 12.5 cents per Mcf rate exceeds the area increased rate ceiling of 11.0 cents per Mcf for Kansas as announced in the Commission's statement of general policy No. 61-1, as amended. Since Pan Am's proposed rate is related to Mobil's resale rate which is in effect subject to refund in Docket No. RI67-274, we conclude that a 1 day suspension period from October 30, 1967, the proposed effective date, is appropriate with respect to Pan Am's rate filing.

Supplement No. 4 to Pan Am's FPC Gas Rate Schedule No. 467 reflects partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax. Although Pan Am's proposed 12.2295 cents per Mcf rate does not exceed the 13.0 cents per Mcf rate for the San Juan Basin Area as announced in the Commission's statement of general policy No. 61-1, as amended, it should be suspended for 1 day from October 23, 1967, the proposed effective date, since the buyer, Southern Union Gathering Co., has previously protested filings for tax reimbursement based on the full 2.55 percent level and is expected to protest the instant filing. The hearing provided for herein will involve only the contractual basis for Pan Am's rate filing contained in Supplement No. 4 to its FPC Gas Rate Schedule No. 467.

With the exception of the rate increase filed by Pan Am in Supplement No. 4 to its FPC Gas Rate Schedule No. 467, all the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56). Since Harper and Continental's proposed rate increases relate to tax reimbursement resulting from the increase in the Oklahoma Excise Tax, it is appropriate to suspend them for only 1 day.

[F.R. Doc. 67-12699; Filed, Oct. 27, 1967; 8:45 a.m.]

[Docket No. G-3139, etc.]

UNION OIL COMPANY OF CALIFORNIA ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 19, 1967.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 9, 1967.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after July 1, 1967, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-3139 C 10-5-67	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex.	12.0	15.025
G-10984 (G-8816) (G-16528) C&F 8-1-67 [1]	Sun Oil Co., 1608 Walnut St., Philadelphia, Pa. 19103.	United Gas Pipe Line Co., Maxie, Pistol Ridge Fields, Forrest, Lamar, and Pearl River Counties, Miss.	20.0	15.025
CI60-604 9-25-67 [2]	Union Oil Co. of California (Operator) et al.	El Paso Natural Gas Co., Spraberry Field, Midland County, Tex.	[3] 17.2295	14.65
CI63-128 D 10-9-67	Hall-Jones Oil Corp., 1704 Liberty Bank Bldg., Oklahoma City, Okla. 73107.	Norhtern Natural Gas Co., Como Field, Beaver County, Okla.	[4]	-------
CI63-1482 E 10-5-67	General American Oil Co. of Texas (successor to Marion Corp. [5]) Meadows Bldg., Dallas, Tex. 75206.	Texas Gas Transmission Corp., Lawson Filed; Acadia Parish, La.	[6] 19.5	15.025
CI66-395 (G-18719) C&F 9-18-67 as amended 10-5-67 [7]	H. K. Keesee et al., c/o S. Wojtulewicz, Bookkeeper, Post Office Box 1995, Farmington, N. Mex. 87401.	El Paso Natural Gas Co., acreage in Sandoval County, N. Mex.	11.0	15.025
CI66-942 C 10-9-67	Pan American Petroleum Corp., Post Office Box 591, Tulsa, Okla. 74102.	Northern Natural Gas Co., Northeast Gage Field, Ellis County, Okla.	[8] 19.56556	14.65
CI67-1108 C 10-6-67	Jamaco Properties, Inc. (Operator) et al., Post Office Box 550, Alexandria, La. 71301.	United Fuel Gas Co., Union District, Kanawha County, W. Va.	28.0	15.325
CI68-238 A 9-1-67 [9]	Tonkawa Gas Co., 2520 Fidelity Union Tower, Dallas, Tex. 75201.	Cities Service Gas Co., acreage in Roger Mills County, Okla.	[10] 17.0	14.65
CI68-503 A 9-29-67	Rhodes & Hicks Drilling Corp. et al., Post Office Box 1579, Alice, Tex. 78332.	Valley Gas Transmission, Inc., Rhomac Field, Live Oak County, Tex.	15.0	14.65
CI68-513 A 10-3-67	The Superior Oil Co., Post Office Box 1521, Houston, Tex. 77001.	United Gas Pipe Line Co., North Kent Bayou Field, Terrebonne Parish, La.	21.25	15.025
CI68-515 A 10-9-67	Rochester & Pittsburgh Coal Co., Box 729, Indiana, Pa. 15701.	The Manufacturers Light & Heat Co., Armstrong Township, Indiana County, Pa.	27.5	15.325
CI68-516 (CI64-1380) F 9-29-67	Monsanto Co. (successor to Shell Oil Co.), 1300 Main St., Houston, Tex. 77002.	Arkansas Louisiana Gas Co., Bonanza Field, Sebastian County, Ark.	[11] 15.0	14.65
CI68-517 A 10-3-67	Drevzoll, Inc., c/o George C. Schneider, President, 2915 Classen Blvd., Oklahoma City, Okla. 73106.	Equitable Gas Co., Center District, Gilmer County, W. Va.	25.0	15.325
CI68-518 A 10-3-67	Parlay Oil, Inc., 11 West Kenneth, Spearman, Tex. 79081.	Michigan Wisconsin Pipe Line Co., Wildcat Field, Seward County, Kans.	16.0	14.65
CI68-519 A 10-5-67	Mesa Petroleum Co (Operator) et al., Post Office Box 2009, Amarillo, Tex. 79105.	Michigan Wisconsin Pipe Line Co., South La Verne Field, Harper County, Okla.	[12] 17.0	14.65
CI68-520 A 10-5-67	Sunray DX Oil Co., Post Office Box 2039, Tulsa, Okla. 74102.	Kansas-Nebraska Natural Gas Co., Inc., Minto Field, Logan County, Colo.	9.1616	15.025
CI68-521 B 10-9-67	-----do-----	South Texas Natural Gas Gathering Co., Javelina Field, Hidalgo County, Tex.	Depleted	-------
CI68-522 B 10-9-67	Glenn Devitt, Rural Delivery No. 1, Hookstown, Pa. 15050.	The Manufacturers Light & Heat Co., Hanover Township, Washington County, Pa.	Depleted	-------
CI68-523 B 10-9-67	Hall-Jones, Ltd	Michigan Wisconsin Pipe Line Co., Laverne Area, Harper County, Okla.	Depleted	-------
CI68-524 B 10-9-67	Hall-Jones Oil Corp	Transwestern Pipeline Co., acreage in Beaver County, Okla.	Depleted	-------
CI68-525 A 10-9-67	George Jackson, Post Office Drawer 351, Clarksburg, W. Va. 26302.	Equitable Gas Co., Otter District, Braxton County, W. Va.	25.0	15.325
CI68-526 A 10-6-67	Robert J. Riedel, d.b.a. R & R Lease Service, Post Office Box 72, Plains, Kans. 67869.	Panhandle Eastern Pipe Line Co., Adams Ranch Field, Meade County, Kans.	[13] 14.0	14.65
CI68-527 A 10-6-67	Sun Oil Co	Transcontinental Gas Pipe Line Corp., Fordoche Field, Pointe Coupee and Iberville Parishes, La.	21.25	15.025
CI68-528 (G-4579) F 10-5-67	Donald W. Jackson (successor to Cities Service Oil Co.), 1411 North Carlton, Liberal, Kans. 67901.	Northern Natural Gas Co., Hugoton Field, Texas County, Okla.	12.0	14.65
CI68-529 (G-3894) F 10-6-67	R. L. Lynd, Operator (successor to Atlantic Richfield Co.), Post Office Box 290, Alice, Tex. 78332.	United Gas Pipe Line Co., North Boyce Field, Goliad County, Tex.	13.2002	14.65
CI68-530 A 10-9-67	Brooks Hall Oil Corp. et al., 1704 Liberty Bank Bldg., Oklahoma City, Okla. 73102.	Cities Service Gas Co., acreage in Woods County, Okla.	[14] 15.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] Adds acreage acquired from Humble Oil & Refining Co., Docket No. G-8816, and Fred La Rue et al., Docket No. G-16528.
[2] Amendment to certificate filed to cover interest of coowner, Humble Oil & Refining Co.
[3] Rate in effect subject to refund in Docket No. RI61-27.
[4] Gas pressure from the producing well is too low to meet Buyer's requirements for its existing lines.
[5] Successor to Marion Oil Co., a division of Stickelber & Sons, Inc.
[6] Includes 1.75 cents per Mcf tax reimbursement.
[7] Adds acreage acquired from Reynolds Mining Corp. and Cities Service Oil Co., successors in interest to M. J. Florence Trust, in Docket No. G-18719. Reynolds Mining Corp. and Cities Service Oil Co. never made certificate filings to cover subject acreage.
[8] Includes 2.55 cents upward B.t.u. adjustment and 0.01556 cent tax reimbursement. Subject to upward and downward B.t.u. adjustment.
[9] Application erroneously noticed Sept. 14, 1967, in Docket Nos. G-3685 et al. with location shown as "acreage in Ellis County, Okla."
[10] Subject to upward and downward B.t.u. adjustment.
[11] Subject to reduction for compression and/or treating costs if required.
[12] Subject to upward B.t.u. adjustment.
[13] Subject to 1.5 cents reduction for compression charge should Buyer compress gas.

[F.R. Doc. 67-12700; Filed, Oct. 27, 1967; 8:45 a.m.]

[Docket No. E-7370]

CITIZENS UTILITIES CO.

Notice of Application

OCTOBER 23, 1967.

Take notice that Citizens Utilities Co. (Applicant), incorporated under the laws of the State of Delaware with its principal place of business in Ridgeway Center, Stamford, Conn., has filed an application in the above-entitled proceeding on October 18, 1967, for an order pursuant to section 202(e) of the Federal Power Act authorizing the exportation of electric energy from the United States to Mexico.

Applicant proposes to transmit not in excess of 5 million kwh of energy per year over its facilities and those of the Comision Federal de Electricidad located at the United States-Mexico international boundary line at Lochiel, Ariz. The energy delivered will be at 13,800 volts, three-phase, 60 cycle.

The source of energy to be so transmitted will be Applicant's gas-diesel electric generating facilities in Santa Cruz County approximately 1 mile outside the city limits of Nogales, Ariz. Applicant will utilize its 46-kv transmission line from the generating plant to its Patagonia Junction substation; Applicant's 2,500-kva Patagonia Junction substation and Applicant's 13,800-volt distribution line to the proposed point of interconnection at the international boundary line at Lochiel, Ariz.

The purchaser of the electric energy, Comision Federal de Electricidad, proposes to use the energy for resale to its customers in Santa Cruz, Sonora, Mexico. Applicant states that energy will be exported from the United States to Mexico only when and if said energy should become available, and only after all Applicant's obligations and commitments for delivery of electric energy to its customers within its service area in Santa Cruz have been fully met.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1967, file with the Federal Power Commission, Washington, D.C. 20426, a petition or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 67-12716; Filed, Oct. 27, 1967; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-134]

WORCESTER POLYTECHNIC INSTITUTE

Notice of Proposed Issuance of Facility License Amendment

The Atomic Energy Commission ("the Commission") is considering the issuance of an amendment, substantially as set forth below, to Facility License No. R-61. The license authorizes Worcester Polytechnic Institute to possess and operate a 1 kilowatt pool-type training and research reactor on its campus at Worcester, Mass.

The proposed amendment would authorize: (1) An increase in operating power level to 10 kilowatts (thermal), (2) the use of two additional fuel elements, and (3) use of certain types of movable experiments in the reactor. The amendment would also incorporate Technical Specifications for operation of the reactor. The above is in accordance with Worcester Polytechnic Institute's request of July 17, 1967, and amendments thereto dated August 18 and September 13, 1967. The Commission would issue the amendment upon making the findings set forth in the proposed amendment.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the issuance of this amended facility license may file a petition for leave to intervene. A request for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's rules of practice, 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued. If no request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue the license amendment fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER.

For further details with respect to this proposed issuance, see (1) the application dated July 17, 1967, and amendments thereto dated August 18 and September 13, 1967, and (2) the related Safety Evaluation prepared by the Division of Reactor Licensing, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the Safety Evaluation may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 19th day of October 1967.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

PROPOSED FACILITY LICENSE AMENDMENT

[License No. R-61]

The Atomic Energy Commission (hereinafter "the Commission") having found that:

a. The application for license amendment, dated July 17, 1967, and amendments thereto dated August 18 and September 13, 1967, comply with the requirements of the Atomic Energy Act of 1954, as amended (hereinafter "the Act"), and the Commission's regulations set forth in Title 10, Ch. I, CFR;

b. There is reasonable assurance that (i) the activities authorized by the license, as amended, can be conducted at the designated location without endangering the health and safety of the public, and (ii) such activities will be conducted in compliance with the rules and regulations of the Commission;

c. Worcester Polytechnic Institute is technically and financially qualified to engage in the activities authorized by this license, as amended, in accordance with the rules and regulations of the Commission;

d. The issuance of this license amendment will not be inimical to the common defense and security or to the health and safety of the public;

e. Worcester Polytechnic Institute is a nonprofit educational institution and will use the reactor for the conduct of educational activities. Worcester Polytechnic Institute is therefore exempt from the financial protection requirement of subsection 170a of the Act;

Facility License No. R-61, as amended, is hereby amended in its entirety, effective as of the date of issuance, to read as follows:

1. This license applies to the pool-type training and research reactor (hereinafter "the reactor") which is owned by Worcester Polytechnic Institute and located on the Institute's campus at Worcester, Mass., and described in the application dated April 27, 1959, and subsequent amendments thereto, including recent amendments of July 17, 1967, August 18, 1967, and September 13, 1967 (herein referred to as "the application");

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Worcester Polytechnic Institute:

A. Pursuant to section 104c of the Act and Title 10, CFR, Ch. I, Part 50, "Licensing of Production and Utilization Facilities", to possess, use and operate the reactor in accordance with the procedures and limitations

described in the application and in this license;

B. Pursuant to the Act and Title 10, CFR, Ch. I, Part 70, "Special Nuclear Material", to receive, possess and use up to 4004 grams of contained U^{235} and 16 grams of plutonium as Pu-Be neutron sources, all in connection with operation of the reactor; and

C. Pursuant to the Act and Title 10, CFR, Ch. I, Part 30, "Rules of General Applicability to Licensing of Byproduct Material", to possess, but not to separate, such byproduct material as may be produced by operation of the reactor.

3. This license shall be deemed to contain and is subject to the conditions specified in Part 20, § 30.34 of Part 30, §§ 50.54 and 50.59 of Part 50 and § 70.32 of Part 70 of the Commission's regulations; is subject to all applicable provisions of the Act and rules, regulations and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified below:

A. *Maximum power level.* The licensee may operate the reactor at steady state power levels up to a maximum of 10 kilowatts (thermal).

B. *Technical Specifications.* The Technical Specifications contained in Appendix A hereto[1] are hereby incorporated in this license. Except as otherwise permitted by the Act and the rules, regulations, and orders of the Commission, the licensee shall operate the reactor in accordance with the Technical Specifications. No changes shall be made in the Technical Specifications unless authorized by the Commission as provided in 10 CFR 50.59.

C. *Records.* In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

(1) Reactor operating records, including power levels and periods of operation at each power level;

(2) Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at or prior to the point of such release or discharge;

(3) Records of emergency shutdowns and inadvertent scrams, including reasons for emergency shutdowns;

(4) Records of maintenance operations involving substitution or replacement of reactor equipment or components;

(5) Records of experiments installed including description, reactivity worths, locations, exposure time, total irradiation and any unusual events involved in their performance and in their handling, and

(6) Records of tests and measurements performed pursuant to the Technical Specifications.

D. *Reports.* In addition to reports otherwise required under this license and applicable regulations:

(1) The licensee shall inform the Commission of any incident or condition relating to the operation of the reactor which prevented or could have prevented a nuclear system from performing its safety function as described in the Technical Specifications. For each such occurrence, Worcester Polytechnic Institute shall promptly notify, by telephone or telegraph, the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix D of 10 CFR Part 20 and shall submit within ten (10) days a report in writing to the Director, Division of Reactor Licensing (hereinafter, Director, DRL) with a copy to the Regional Compliance Office.

(2) The licensee shall report to the Director, DRL, in writing within thirty (30) days of its observed occurrence any substantial variance disclosed by operation of the reactor from performance specifications contained in the Safety Analysis Report or the Technical Specifications.

(3) The licensee shall report to the Director, DRL, in writing within thirty (30) days of its occurrence any significant changes in transient or accident analysis as described in the Safety Analysis Report.

4. This license shall expire at midnight, November 23, 1979.

Date of Issuance:

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 67-12715; Filed, Oct. 27, 1967; 8:45 a.m.]

[1] This item was not filed with the Office of the Federal Register but is available for inspection in the Public Document Room of the Atomic Energy Commission.

CIVIL AERONAUTICS BOARD

[Docket No. 19066; Order E-25875]

CENTRAL AIRLINES, INC.

Order Dismissing Complaint Regarding Standby Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1967.

By tariff[1] bearing a posting date of September 18, 1967, and marked to become effective November 2, 1967, Central Airlines, Inc. (Central),[2] proposed local one-way standby fares for 27 selected markets on its route system. Transportation is on a space available basis only on flights other than nonstop flights between such points. The proposed standby fares are equal to approximately 50 percent of the regular one-way first-class propeller fares, with a minimum fare of $10. The fares are not applicable to or from intermediate points and passengers will be enplaned on a flight subject to availability of space at departure time, and only after all passengers having reservations for such flights have been enplaned. The proposed tariff is marked to expire with December 31, 1967.

Braniff Airways, Inc. (Braniff), has filed a complaint requesting investigation and suspension of the reduced standby fares on the grounds that such fares are unjust and unreasonable, in violation of section 404(a) of the Act; constitute an unfair method of competition; and are proposed in anticipation of the October 1, 1967, effectuation of the Frontier-Central merger. The carrier further contends that the proponent has not adequately demonstrated the validity of such fares and in fact has only advanced, as economic justification, Frontier's record under its standby tariff. Finally, Braniff asserts that while it is appropriate for the Board to authorize reasonable experimentation with promotional fares, the unsupported proposal should not be permitted to go into effect and further aggravate Braniff's declining yield while being nonbeneficial to the other carrier.

In addition to the complaint, the Board received telegrams from the Chamber of Commerce of Amarillo, Oklahoma City, and Tulsa. All these parties supported the tariff filing.

In support of its proposal and in answer to the complaint, the carrier contends that the proposed standby fares are filed in anticipation of their adoption by Frontier; are intended as an extension of Frontier's present adult standby fares to include markets on Central's former system where there is a favorable prospect of major traffic promotion and increased revenues; are economically supportable on the basis of Frontier's record under its standby tariff; and are compensatory in that they more than cover the added cost of carrying a standby passenger on existing flights. The carrier contends that the complaint of Braniff is without foundation since the Frontier-Central merger became effective on October 1, 1967; that the standby fare service involves two or three intermediate stops in competition with Braniff's nonstop jet service; and that it should be able to rely on other carriers' experience regarding experimental fare programs.

The Board, upon consideration of the proposed tariff, the complaint with respect thereto, and other matters of record, finds that the complaint against such tariff should be dismissed. The proposed standby tariff is, except for the markets involved, similar to the standby tariff of Frontier[3] which appears to have been successful in increasing overall traffic and revenues without significant diversion of regular fare traffic. While the complainant asserts, inter alia, that the proposed fares constitute an unfair method of competition, there has been no showing to support that allegation nor is there any information before us that the proposed standby fares are unreasonable.

While we will permit the carrier to pursue this experiment, we believe that for purposes of future evaluation, we will require it to maintain complete records of traffic and revenues by type of traffic and by flight and market. The data will be maintained on the basis set forth for Frontier in Order E-23128, January 18, 1966, and will be reported to the Board with future proposals to extend the applicability of these standby fares. We would also expect competing air carriers to compile similar records to show the impact, if any, of the standby fares in these 27 markets upon their traffic and revenues.

The Board finds that its action herein is necessary and appropriate in order to

[1] Central Airlines, Inc., CAB No. 34.

[2] The certificate of public convenience and necessity held by Central was canceled and reissued to Frontier Airlines, Inc. (Frontier), as a result of the merger of the two carriers effective Oct. 1, 1967 (Order E-25749, Sept. 28, 1967). By tariff CAB No. 46, Frontier adopted as its own all effective and proposed tariffs of Central on file with the Board at the date of the merger.

[3] Order E-24979, Apr. 13, 1967.

carry out the provisions and objectives of the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, and 1002 thereof.

Accordingly, it is ordered, That:

1. The complaint of Braniff Airways, Inc., in Docket 19066 is dismissed; and

2. A copy of this order be served upon Frontier Airlines, Inc., and Braniff Airways, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

[F.R. Doc. 67-12731; Filed, Oct. 27, 1967; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 17555-17558; FCC 67R-447]

AZALEA CORP. ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of Azalea Corp., Mobile, Ala., Docket No. 17555, File No. BP-17340; W.G.O.K., Inc. (WGOK), Mobile, Ala., Docket No. 17556, File No. BP-17398; People's Progressive Radio, Inc., Mobile, Ala., Docket No. 17557, File No. BP-17477; Mobile Broadcast Service, Inc., Mobile, Ala., Docket No. 17558, File No. BP-17478; for construction permit.

1. The purpose of this comparative proceeding is to determine the successor to WMOZ, Inc., as the licensee on 960 kHz in Mobile, Ala. Three of the applicants request new stations on the frequency, while W.G.O.K., Inc. (WGOK), seeks a change from its present Mobile assignment on 900 kHz. The applications were designated for hearing on a large number of issues by a Commission order released July 13, 1967 (FCC 67-756), the order also providing for return of applications by Azalea and People's for interim operating authority.[1]

2. Now before the Review Board is a petition to enlarge issues, filed by Mobile Broadcast Service, Inc. (MBS), on August 4, 1967.[2] In brief, MBS seeks an ex parte issue against Azalea; a financial issue against People's; a comparative ascertainment of needs issue; and an unfair labor practices and lack of disclosure issue against WGOK. The requests are considered below seriatim.

EX PARTE MATTER

3. MBS's ex parte contentions center on two letters to the Commission's Chairman from an Alabama Congressman.[3] The first was received on July 21, 1966, the day after the filing of Azalea's application, and its principal point was that the Azalea interim application should be granted prior to August 1, 1966, "so that there will be no break in the assigned frequency." At the time the letter was submitted, no competing application for permanent or interim authority was pending before the Commission; and the Board agrees with the Broadcast Bureau that the proceeding was not a "restricted" one within the meaning of Rules 1.1203 and 1.1223, and that the letter was beyond the proscription of the Commission's ex parte rules. It is true, as MBS states, that the letter conjectured that a competing application might be filed by "out-of-State interests", and endorsed the proposition that "it would be in the best interest of the citizens of the Mobile area to have the frequency assigned to local people who will be in constant contact with the operation of the radio station." The Board believes, however, that the endorsement can be dismissed as no more than a somewhat chauvinistic declaration or position that local franchises should be awarded to local people.[4]

4. The second letter, received on August 22, 1966,[5] acknowledged receipt of the Chairman's response to the earlier letter and went on to urge that Azalea's application be given a file number, since the Commission has not established a "cut off date for competing applications," and since Azalea, needed a file number before its interim request could be granted. Clearly, the second letter can be characterized as a permitted "complaint directed to administrative delay" within the contemplation of Fine Music, Inc., 8 FCC 2d 529, 10 RR 2d 400 (1967). Although, as the MBS reply points out, that case cautions that complaints submitted only a short period after the filing of an application might not clear other ex parte tests, the timing of the second letter must be judged in the light of the Congressman's earlier expressed concern that there be no interruption of broadcast service on the 960 kHz frequency. Thus, from Azalea's and the Congressman's standpoints, Azalea's interim request had been pending since July 20, 1966, WMOZ, Inc. had terminated operations on July 31, 1966, and Azalea's application still had not received a file number as of August 19, 1966 (the date of the second letter). Under these circumstances, the Board shares the Broadcast Bureau view that the letter of complaint did not transcend proper bounds.

PEOPLE'S FINANCES

5. People's application specifies first year outlays of $90,744, and People's proposes to meet them with a bank loan of $100,000 and capital contributions of $30,000 by its six stockholders.[6] In requesting a financial issue against People's, the MBS petition points out that supporting bank letters and subscription agreements are not contained in the application, and that the balance sheet of People's stockholder John C. Smith shows that Smith's current liabilities exceed his current assets by $3,100.

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[1] WMOZ, Inc. had been ordered by the Commission to discontinue operation on or before July 31, 1966. Azalea's request for interim operation was contained in its application for permanent authority (filed July 20, 1966) and sought a "continuity of operation" on 960 kHz. People's utilized a similar filing procedure, but did not file its application until Oct. 24, 1966; by letter of Apr. 4, 1967, it requested dismissal of its interim request.

[2] Also before the Board are an opposition, filed by WGOK on Aug. 17, 1967; comments, filed by the Broadcast Bureau on Aug. 17, 1967; a reply to the Bureau's comments, filed by WGOK on Aug. 24, 1967; an opposition, filed by People's on Sept. 1, 1967; and a reply pleading, filed by MBS on Sept. 27, 1967. Azalea, against whom MBS seeks an ex parte issue, has not responded to the petition. It appears that Azalea terminated its relationship with its first Washington counsel prior to the filing of the MBS petition, and MBS sought to effect service (by mail) on Azalea's president (Charles Trainor) as the "person to whom communications should be sent" (see FCC Form 301, page 1). However, the address utilized by MBS was that of the corporation, and not that listed in the application for Mr. Trainor. The Broadcast Bureau, in serving its comments, also used the corporate address; and, although both WGOK and People's used Mr. Trainor's specified address in serving their pleadings, the Azalea ex parte matter is not mentioned therein. New counsel for Azalea filed a notice of appearance on Sept. 19, 1967, and the MBS reply pleading—which again discusses the ex parte matter—was properly served on him. Additionally, it appears from an MBS extension of time request of Sept. 12, 1967 (granted by the Board, FCC 67R-391, released Sept. 18, 1967) that counsel for MBS discussed the MBS allegations with Mr. Trainor during a telephone conversation on Sept. 11, 1967. In view of the Board's denial on the merits of the request for an ex parte issue, any procedural questions presented by the foregoing need not be resolved by the Board.

[3] The letters, as well as a response to the first letter by the Chairman, are contained in Azalea's docket.

[4] It may be noted here that of the four applicants, only WGOK (which has not complained of the letters) can be said to be controlled by "out-of-State interests", and even it has a local flavor in that it has operated a station in Mobile for nearly a decade. Although MBS seeks to infer that Azalea knew of the impendency of the WGOK application, there is no specific allegation in this respect, and consequently no question of whether WGOK should have been notified of Azalea's contact of the Congressman or received a copy of his letter.

[5] Four days after the Commission's Public Notice of the filing of the WGOK application. As previously indicated, WGOK currently operates a station on 900 kHz in Mobile, and its application for permanent authority on 960 kHz contained no request for interim authority on the new frequency.

[6] Each of the six stockholders advanced $300 to People's prior to the filing of the application, leaving a remainder of $4,700 each. However, the bank loan, if made in the full amount of the proposal therefor, would apparently obviate the need for capital contributions by the stockholders.

Additionally, the petition speculates that Smith may have contingent liabilities in connection with a recent disposal by him of an interest in another radio station, but there are no specific allegations of fact in this respect, as required by Rule 1.229(c).

6. By Order FCC 67M–1659, released October 5, 1967, the Hearing Examiner accepted an amendment by People's "supplying an executed stock subscription agreement and a bank loan commitment letter". However, as pointed out by MBS's reply pleading, the duration, interest rate, repayment provisions, and other terms of the loan are not given in the bank letter, and the problem with respect to the Smith balance sheet has not been cured by the amendment. Accordingly, appropriate issues are warranted. A reference in the reply pleading to "the aging personal balance sheets" of People's stockholders has no roots whatever in the MBS petition, and it is rejected as the basis for an issue on this ground and on the further ground that each of the balance sheets was less than one year old at the time of the designation order. MBS's final point is that the bank letter requires endorsement by each of People's six stockholders, and that the stockholders have not indicated that they would be willing to endorse the note. However, as stated by the Commission in Desert Telecasting Co., Inc., 2 FCC 2d 217, 6 RR 2d 691 (1965): "We cannot assume that the applicant would negotiate for and secure a commitment from the bank, subject to a guarantee condition, and file this written commitment with the Commission, if the applicant's principals were unwilling to fulfill the condition." [7]

ASCERTAINMENT OF NEEDS

7. The Commission's designation order specified a Suburban issue against MBS for failing to identfy the persons and organizations consulted in its survey of area needs, and an identical issue against Azalea for similar and additional reasons. MBS does not here contend either that a Suburban issue should not have been designated against it, or that People's and WGOK should be put to the same test. Nevertheless, its allegations are to the effect that there has been "a significant disparity in efforts" [8] among the four applicants in seeking to determine area needs, and it contends that the respective efforts should be examined on a comparative basis. Notwithstanding opposition to the issue by People's and the Broadcast Bureau, the Board believes that MBS's allegations meet the test of the Chapman case, supra, and that a comparative ascertainment of needs issue should be added to the proceeding.[9]

8. MBS's petition accurately reports the pertinent ascertainment showings set forth in the respective applications, and they are, in brief, as follows: (a) MBS took a telephone survey involving 801 unidentified interviewees, and personally interviewed more than 20 unidentified community leaders and professional people; (b) Azalea conducted a survey among an undisclosed number of unidentified persons and organizations; additionally, the president of the Mobile chapter of NAACP participated in the preparation of Azalea's programing proposals, and Azalea's president has been in contact with community organizations and has actively participated in 10 such organizations; (c) as an existing station not proposing a substantial change in programing, KGOK was exempt from filing section IV–A (programing) of its application; [10] however, in an amendment to its application (prior to designation) it indicated that, in connection with its renewal application due January 1, 1967, it interviewed at least 20 of Mobile's leading citizens (unnamed), and discussed its programing with many of its listeners; (d) People's described its six stockholders as "community leader(s) with broad experience regarding the affairs of the city of Mobile and its residents", and indicated that it had conducted a survey involving 10 other (named) "representative persons and groups" in Mobile and Prichard, Ala.

9. From the foregoing it appears that evidentiary inquiry may reveal significant differences among the applicants with respect to their respective ascertainment efforts, and it is clear that under the Chapman holding an appropriate issue is warranted.[11]

UNFAIR LABOR PRACTICES

10. Paragraph 10.g. of section II of FCC Form 301 (the application form utilized by the applicants herein) inquires as follows: "Are there outstanding any unsatisfied judgments or decrees against applicant or any party to this application?" WGOK did not include a section II in its filing, but merely made reference to the station's renewal application (BR–3727, granted May 19, 1966), a procedure permitted where the information called for is already on file in another application "filed by or on behalf of (the) applicant".[12] However, the Commission's renewal application form (FCC Form 303) does not ask a similar question, and nowhere in its renewal filing did WGOK address itself to the matter of unsatisfied judgments or decrees. Accordingly, it is clear that WGOK has supplied no answer to the quoted question.

11. The MBS petition shows that in June 1964 an NLRB Trial Examiner issued a Decision holding that WGOK had committed unfair labor practices in respects going "to the very heart of the [NLRA]"; that among the violations was the discharge of two station employees "because of their union activity"; that the Trial Examiner recommended that WGOK cease and desist from the various practices condemned in the Decision, and that (among other things) the station reinstate the two employees with back pay; that the Trial Examiner rejected for want of credibility explanations by WGOK's vice president and general manager (Robert I. Grimes) as to why the employees were discharged; that by decision and order the NLRB itself adopted the Trial Examiner's decision in the respects set forth above; [13] and that, in an action still pending in the courts, the NLRB sued for enforcement of its order in July 1965. Based on WGOK's failure to reveal the existence of the proceeding,[14] the violations themselves of the NLRA, and the Trial Examiner's refusal to credit Grimes' explanations, MBS believes that "an issue should be added to determine whether these matters reflect adversely on WGOK's licensee qualifications." The Broadcast Bureau supports the inclusion of an issue, but would add it on a comparative basis only, and would limit it to the unfair labor practices and lack of disclosure.

12. In its opposition to the petition, WGOK takes the position that the question involved "does not refer to proceedings before an administrative agency and an appeal from a final order of the agency", and that the NLRB action "does not reflect adversely upon WGOK's

[7] See, also, Kittyhawk Broadcasting Corp., 8 FCC 2d 839, 10 RR 2d 628 (Rev. Bd. 1967).

[8] See Chapman Radio and Television Co., 7 FCC 2d 213, 215, 9 RR 2d 638 (1967).

[9] Although WGOK contends generally that the MBS request is "defective for lack of specificity," it does not oppose the issue "because it knows that none of the applicants can gain a preference over it."

[10] With a change of frequency, WGOK would serve an additional 45,000 persons in areas contiguous to its present service areas, and the Commission ordinarily presumes that the programing needs of contiguous areas are substantially similar. MBS quotes from WGOK's renewal application to the effect that WGOK's major programing effort is directed to "the Negro community which totals 40 percent of the population of (the cities of) Mobile and Prichard (Alabama)." MBS raises the question of whether the presumption should be applicable in a specialized-programing situation where the population to be gained has not been shown to have a makeup similar to that of the population already served. Were MBS here asking for a Suburban issue, we think the burden would be on it to seek to rebut the presumption by showing a differing makeup. We believe, however, that under the comparative issue being added herein, the composition of the area and population to be gained and the extent of the applicants' ascertainment efforts with respect thereto are legitimate bases for evidentiary inquiry.

[11] The Broadcast Bureau's argument that because the MBS and Azalea applications did not contain ascertainment showings sufficient to avoid Suburban issues, those applicants cannot possibly establish at hearing that their efforts were significantly superior to those of the other two applicants, is a non sequitur, since the deficiencies in the showings may be only procedural and not substantive. People's argument that "MBS has not produced any new data" not before the Commission at designation time overlooks that the designation order did not address itself to the matter of comparative ascertainment efforts. See Atlantic Broadcasting Co., 5 FCC 2d 717, 8 RR 2d 991 (1966).

[12] See Instruction E, FCC Form 301, page 1.

[13] WGOK, Inc., et al., 152 NLRB 959 (1965).

[14] Although the petition appears to speak in terms of a violation of Rule 1.65, it should be noted that Rule 1.65 requires (a) amendments when information furnished in an application "is no longer substantially accurate and complete in all significant respects", and (b) the reporting of "a substantial change as to any other matter which may be of decisional significance" (emphasis added). It is not directly involved in situations of misrepresentations or nondisclosures in applications.

qualifications". In its reply to the Broadcast Bureau's comments, WGOK adds that "If the parties had reviewed the license file of WGOK, they would have noted that the 1964 decision of the NLRB Hearing Examiner has been on file", and that "the Commission, by its General Counsel advised the union that the decision would be considered by the Commission when the next application for renewal of license was under consideration.".[15] As pointed out by WGOK, the Commission renewed the station's license on May 19, 1966, for the term ending April 1, 1967. Subsequently, on March 29, 1967, it renewed WGOK's license for the term ending April 1, 1970.

13. WGOK's contention that question 10.g. does not contemplate agency orders of the type here involved is completely unsupported, and is inconsistent with the unambiguous nature of the question and the clear intent of the Commission's Report on Uniform Policy as to Violations by Applicants of Laws of the United States, 1 RR (Part 3) 91:495 (1951). That report affirmed that

> the Commission's authority to consider violations of Federal Laws, other than the Communications Act of 1934, in evaluating applications for radio facilities is well established and that a positive duty is imposed upon us to exercise that authority. (Id., at 91:947.)

Here, at the time WGOK filed its application for improved facilities, there was outstanding an order by the NLRB directing WGOK to (a) cease and desist from the unfair labor practices spelled out in the accompanying decision, and to (b) take specified affirmative action necessary to effectuate the policies of the NLRA. WGOK has not alleged that it has complied in whole or in part with the order, and the fact that the NLRB has sued for enforcement of its order makes it apparent that the order remains unsatisfied. Thus, revelation of the outstanding order was clearly required by question 10.g. Moreover, even were there uncertainty in the latter respect, WGOK—as witness its reference in its reply to the Broadcast Bureau's comments to a letter by the Commission's General Counsel—appears to have had actual knowledge that the Commission regarded the NLRB matter as revelant to WGOK's qualifications for a renewal of its license. Obviously, if conduct is relevant to a determination of an applicant's absolute qualifications, it is relevant as well to a determination of comparative qualifications in a multiparty proceeding.

14. WGOK's point that a copy of the Trial Examiner's 1964 decision is contained in WGOK's license file is unavailing, since Instruction E of Form 301 makes clear that the reference procedure may be utilized only where the information involved is contained in an application filed by or on behalf of the applicant. In the foregoing connection, the decision is not a part of the renewal application referenced by WGOK, and WGOK does not even allege that it supplied the copy of the decision contained in its license files.

15. Based on all of the above, the Board believes that an issue inquiring into WGOK's failure to make disclosure with respect to the NLRB matter should be added to the proceeding, and that the issue should be sufficiently broad to permit disqualification should the facts adduced so warrant. Since the facts as to the nondisclosure appear to be peculiarly within WGOK's knowledge, both the burden of proceeding with the introduction of evidence and the burden of proof under the issue is hereby placed on WGOK. See Clay County Broadcasting Co., FCC 65R–419, 1 FCC 2d 1440.

16. From the letter by the Commission's General Counsel quoted in note 15, supra, it must be concluded that the Commission considered the conduct forming the basis of the NLRB proceeding in connection with its 1966 renewal of the WGOK license; and from the renewal itself it is clear that the Commission did not regard such conduct as disqualifying in nature. Nevertheless, the conduct could warrant an adverse comparative conclusion against WGOK, and the Board believes that it may properly be inquired into at the hearing. To permit the inquiry it is not necessary to add a specific issue to the proceeding, and the parties may adduce the relevant evidence under the past broadcast record aspect of the standard comparative issue already in the proceeding. As to the Grimes testimony in the NLRB proceeding, the Trial Examiner's mere rejection of it as incredible would form a doubtful basis at best for a demerit against WGOK, and this is particularly so in light of the fact that Grimes holds no ownership interest in WGOK. Accordingly, the parties should limit their inquiries here to the conduct underlying the NLRB proceeding.

Accordingly, it is ordered, That the petition to enlarge issues, filed by Mobile Broadcast Service, Inc. on August 4, 1967, is granted to the extent indicated in paragraphs 6, 9, 15, and 16, above, and is denied in all other respects; and that the issues in this proceeding are enlarged by the addition of the following issues:

(1) To determine with respect to the People's Progressive Radio, Inc., application:

(a) The terms upon which a loan will be available to the applicant from the First National Bank of Mobile.

(b) Whether John C. Smith possesses sufficient net liquid assets to enable him to meet his $4,700 subscription agreement.

(c) Whether, in the light of the evidence adduced with respect to the foregoing subissues, the applicant is financially qualified.

(2) To determine on a comparative basis the significant differences among the applicants with respect to the efforts made by each to ascertain the needs and interests of the community and area proposed to be served;

(3) To determine the facts and circumstances with respect to W.G.O.K., Inc.'s, failure to disclose in its application herein the facts of the decision and order in WGOK, Inc., et al., reported at 152 NLRB 959 (1965); and to determine the effect of such facts and circumstances on W.G.O.K., Inc.'s, requisite and comparative qualifications to receive a grant of its application.

Approved: October 19, 1967.

Released: October 25, 1967.

FEDERAL COMMUNICATIONS COMMISSION,[15]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 67-12735; Filed, Oct. 27, 1967; 8:47 a.m.]

[Docket No. 16928 etc.; FCC 67M-1793]

CALIFORNIA WATER AND TELEPHONE CO. ET AL.

Order Continuing Prehearing Conference

In the matter of California Water and Telephone Co., Tariff FCC No. 1 and Tariff FCC No. 2, applicable to channel service for use by community antenna television systems, Docket No. 16928; in the matter of the Associated Bell System Cos., tariffs for channel service for use by community antenna television systems, Docket No. 16943; in the matter of the General Telephone System, and United Utilities, Inc., Cos., tariffs for channel service for use by community antenna television systems, Docket No. 17098.

The Hearing Examiner having under consideration an unopposed motion by National Community Television Association, Inc., for a continuance of the prehearing conference now scheduled for November 14, 1967, in the above matter, said motion having been filed October 13, 1967, and

It appearing that good cause has been shown:

It is ordered, That the aforesaid motion is granted and that the further prehearing conference is rescheduled to commence at 10 a.m., December 19, 1967, in

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[15] The Review Board has examined WGOK's "license file", but no letter from the Commission's General Counsel to a union appears therein. In the file, however, is a letter of Mar. 18, 1964, from the Commission's General Counsel to the General Counsel of the NLRB, and it may be that this is the letter to which WGOK has reference. This letter requested "the salient facts and current status" of the WGOK–NLRB matter, and stated, in part, as follows:

"The Commission is currently reviewing the operation of Station WGOK for the purpose of passing on its pending application for renewal of license. The Commission considers as relevant to such a review the conduct of the licensee in its relations with other government agencies and the question of the licensee's compliance with other federal statutes."

A copy of the Trial Examiner's June 1964, decision also appears in the license file, but WGOK does not contend that it supplied the copy.

[15] Review Board Board Member Nelson absent.

the Commission's offices in Washington, D.C.

Issued: October 24, 1967.

Released: October 25, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12736; Filed, Oct. 27, 1967; 8:47 a.m.]

[Docket No. 17733; FCC 67M-1770]

ROY E. CARLISLE

Order Scheduling Hearing

In the matter of Roy E. Carlisle, Portland, Oreg., order to show cause why the license for Radio Station KNC-2637 in the Citizens Radio Service should not be revoked, Docket No. 17733.

It is ordered, That Chester F. Naumowicz, Jr., shall serve as Presiding Officer in the above-entitled proceeding; and that the hearing therein shall be convened in the offices of the Commission, Washington, D.C., on December 13, 1967, at 10 a.m.

Issued: October 19, 1967.

Released: October 19, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12738; Filed, Oct. 27, 1967; 8:47 a.m.]

[Docket Nos. 17738-17739; FCC 67M-1782]

DAYTONA BROADCASTING, INC., AND GARDENS BROADCASTING CO.

Order Cancelling Hearing

In re applications of Daytona Broadcasting, Inc., West Palm Beach, Fla., Docket No. 17738, File No. BPH-5372; Gardens Broadcasting Co., West Palm Beach, Fla., Docket No. 17739, File No. BPH-5850; for construction permits.

As a result of an agreement reached at a prehearing conference held this date: *It is ordered,* That the presently scheduled date for hearing of December 11, 1967, is hereby canceled, and that a prehearing conference shall convene on that date at 9:30 a.m.

Issued: October 20, 1967.

Released: October 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12739; Filed, Oct. 27, 1967; 8:47 a.m.]

[Docket No. 17659; FCC 67M-1781]

KING'S GARDEN, INC.

Order Continuing Hearing

In re application of King's Garden, Inc., Seattle, Wash., Docket No. 17659, File No. BPCT-3875; for a construction permit for a new television broadcast station.

It is ordered, On the Hearing Examiner's own motion, and with the consent of all parties to the proceeding, that hearing in the above-entitled proceeding is hereby rescheduled from November 14, to November 16, 1967, and will be held on the latter date in the offices of the Commission, Washington, D.C., commencing at 10 a.m.

Issued: October 20, 1967.

Released: October 20, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12740; Filed Oct. 27, 1967; 8:47 a.m.]

[Docket Nos. 17704, 17705; FCC 67M-1783]

STAMPS RADIO BROADCASTING CO. AND NOARK BROADCASTING, INC.

Order Continuing Hearing

In re applications of: H. Weldon Stamps, trading as Stamps Radio Broadcasting Co., Fayetteville, Ark., Docket No. 17704, File No. BPCT-3857; Noark Broadcasting, Inc., Fayetteville, Ark., Docket No. 17705, File No. BPCT-3901; for construction permit for new television broadcast station (Channel 36).

Pursuant to the agreements reached at the prehearing conference herein on October 13, 1967:

It is ordered,

(a) That all exhibits to be offered into evidence, except engineering exhibits, in the direct case shall be exchanged among the parties and copies supplied the Hearing Examiner on December 1, 1967;

(b) That notification of witnesses to be called for cross-examination and notification of witnesses to be called in the affirmative presentations shall be given on or before December 8, 1967. The areas of testimony of each witness to be called in the affirmative presentations shall be delineated at the time of giving notice;

(c) That the date for commencement of hearing is continued from December 1, 1967, to December 18, 1967, commencing at 10 a.m. in the offices of the Commission at Washington, D.C.

Issued: October 18, 1967.

Released: October 23, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12741; Filed, Oct. 27, 1967; 8:47 a.m.]

[Docket Nos. 17563, 17564; FCC 67M-1786]

WESTERN BROADCASTING CO. AND KING BROADCASTING CO.

Order Continuing Hearing

In re applications of Ralph Weagant trading as Western Broadcasting Co., Portland, Oreg., Docket No. 17563, File No. BPH-5659; King Broadcasting Co., Portland, Oreg., Docket No. 17564, File No. BPH-5841; for construction permits.

The Hearing Examiner having under consideration the motion for continuance of the hearing in the above-entitled proceeding now scheduled for October 26, 1967, filed on October 20, 1967 by King Broadcasting Co.; and

It appearing that there is now pending before the Review Board a joint petition of the applicants for dismissal of the application of Ralph Weagant, trading as Western Broadcasting Co. and that a grant of such petition would obviate the necessity for hearing; and

It further appearing that public interest considerations support a waiver of the provision of the rules so as to permit immediate consideration of the instant motion:

It is, therefore, ordered, That the motion is granted, and the hearing now scheduled for October 26, 1967 be and the same is hereby continued to December 27, 1967, at 10 a.m.

Issued: October 23, 1967.

Released: October 25, 1967.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12742; Filed, Oct. 27, 1967; 8:47 a.m.]

[Canadian Change List 233]

CANADIAN BROADCAST STATIONS

List of Changes, Proposed Changes and Corrections in Assignment

OCTOBER 19, 1967.

Notification under the provision of Part III, Section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes and corrections in assignment of Canadian Broadcast Stations modifying appendix containing assignments of Canadian Stations (Mimeograph No. 47214-3) attached to the recommendation of the North American Regional Broadcasting Agreement Engineering Meeting.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
CFNL (assignment of call letters).	Fort Nelson, British Columbia.	*690 kilocycles* 0.25 kw	ND	U	IV	
CHVD (now in operation).	Dolbeau, Province of Quebec.	*1250 kilocycles* 1 kwD/0.25 kwN.	ND	U	IV	
New (correction of transmitter power from that shown on list No. 228).	Westlock, Alberta	*1310 kilocycles* 5 kw	DA-N	U	III	
CHRT (assignment of call letters).	St. Eleuthere, Province of Quebec.	*1450 kilocycles* 0.25 kw	ND	U	IV	
CJRN (PO: 1600 kc, 10 kw, DA-2, change from that notified in list No. 206).	Niagara Falls, Ontario	*1600 kilocycles* 25 kw	DA-2	U	III	E.I.O. 10-1-68.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[F.R. Doc. 67-12737; Filed, Oct. 27, 1967; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

BATELLE NORTHWEST-PACIFIC NORTHWEST LABS.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00056-00-46040. Applicant: Batelle Northwest-Pacific Northwest Laboratories, Post Office Box 999, Richland, Wash., 99352. Article: Tilting Stage Goniometer for Electron Microscope. Manufacturer: Japan Electron Laboratories, Japan. Intended use of article: The article will be used as an attachment to Model JEM-6A-604 electron microscope at the applicant institution. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which the foreign article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is an accessory to a JEM-6A-604 electron microscope which was manufactured by the Japan Electron Laboratories. The only known domestic manufacturer of electron microscope, Radio Corporation of America, does not make electron microscope accessories that are interchangeable with those of other makes of electron microscopes. We know of no other domestic manufacturer which makes accessories of this type for electron microscopes.

The Department of Commerce therefore finds that no instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12764; Filed, Oct. 27, 1967; 8:49 a.m.]

JOHNS HOPKINS UNIVERSITY SCHOOL OF MEDICINE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00153-33-46500. Applicant: The Johns Hopkins University School of Medicine, Department of Anatomy, 725 North Wolfe Street, Baltimore, Md. 21205. Article: Ultramicrotome, Model "Om U2". Manufacturer: Reichert, Austria. Intended use of article: The article will be used to cut more than 100 consecutive sections of a single layer of cells grown in tissue culture. Comments: No comments were received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The purposes for which the foreign article is intended to be used require a series of ultrathin sections to be produced with consistent accuracy and uniformity. The foreign article incorporates a thermal advance (feed) which allows sections to be produced, which range in thickness down to 1 Angstrom. The only known comparable domestic instrument, Model MT-2 ultramicrotome manufactured by Ivan Sorvall, Inc., employs a mechanical advance which has a minimum thickness capability down to 100 Angstroms. (See Sorvall catalog on MT-1 and MT-2 ultramicrotomes, 1966, page 11.) In the case of a prior application relating to an identical foreign article, we were advised by the Department of Health, Education, and Welfare (HEW), that in the experience of experts working with biological materials, ultramicrotomes equipped with a thermal feed have been proven superior to those equipped only with a mechanical feed. (See Docket No. 67-00052-33-46500 and memorandum from HEW dated July 26, 1967 contained therein.) In cited memorandum, HEW also advised that consistent reproducibility of section thickness is substantially greater when the thermal advance is used than when the advance is achieved through purely mechanical means.

We therefore, find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12767; Filed, Oct. 27, 1967; 8:49 a.m.]

NATIONAL BUREAU OF STANDARDS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment,

Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00066-00-46040. Applicant: National Bureau of Standards, Gaithersburg, Md. 20760. Article: Electron microscope accessory, anticontamination trap, Model No. ACS-2. Manufacturer: Japan Electron Optics Laboratory Co., Inc., Japan. Intended use of article: The article will be used as an accessory to Model JEM-5Y electron microscope made by the same manufacturer. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a specially designed accessory for use with a JEM-5Y electron microscope which was manufactured in Japan. Accessories produced for use with electron microscopes made by the Radio Corporation of America (RCA) are not interchangeable with any accessories produced for use with electron microscopes made by any other manufacturer.

The Department of Commerce knows of no other domestic manufacturer that produces an accessory similar to the foreign article, which will fit the JEM-5Y electron microscope.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12770; Filed, Oct. 27, 1967; 8:49 a.m.]

PRESBYTERIAN HOSPITAL, COLUMBIA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article.

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00023-33-46040. Applicant: The Presbyterian Hospital, Black Research Building, Room 1014, Columbia University, 630 West 168th Street, New York, N.Y. 10032. Article: Electron Microscope Hitachi Perkin-Elmer Model HU-11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to study cancer of the prostate and the effects of various forms of treatment and its ability to destroy these cancer cells. Cell fractions will be obtained from the surgical specimens and these also will be studied from an electron microscopy point of view with negative staining. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a guaranteed resolution of 5 Angstroms. The only know comparable domestic instrument, Model EMU-4 electron microscope, manufactured by Radio Corporation of America (RCA) has a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving power.) For the purposes for which the foreign article is intended to be used, we find that the difference in resolving power is significant. (2) The foreign article provides four accelerating voltages, 25, 50, 75, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage (25 kilovolts) provides optimum contrast for ultrathin unstained sections, and that the voltages intermediate between 50 and 100 kilovolts provide optimum contrast for negatively stained specimens. For the purposes for which the foreign article is intended to be used, we find the availability of the 25 and 75 kilovolt accelerating voltages to be pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other scientific instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12771; Filed, Oct. 27, 1967; 8:49 a.m.]

PRESBYTERIAN HOSPITAL, COLUMBIA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 68-00024-33-46040. Applicant: The Presbyterian Hospital, Black Research Building, Room 1014, Columbia University, 630 West 168th Street, New York, N.Y. 10032. Article: Electron Microscope Hitachi Perkin-Elmer Model HS/78. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to study the ultrastructure of cancer of the prostate both in its active and inactive forms, as well as the effect of various forms of treatment and its ability to destroy these cancer cells. The biopsies that are obtained periodically from patients who had therapy will be studied for ultrastructural changes. There will also be cell fractions that will be obtained from the surgical specimens and these also will be studied from an electron microscopy point of view with negative staining. Comments: No comments have been received with respect to this application. Decision: Application approved. Delivery time quoted by domestic manufacturer (Radio Corporation of America (RCA)) on a comparable instrument (Model EMU-4 electron microscope) was excessive. Reasons: The delivery time quoted for the foreign article was three months, whereas the delivery time quoted by RCA was nine months. We find the difference of 6 months to be excessive, since the program of research on cancer of the human male urinary system, with which the foreign article is intended to be used, would be adversely affected by such a delay.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States and could have been supplied within a reasonable delivery time when the applicant placed the order for the foreign article (April 1967).

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12775; Filed, Oct. 27, 1967; 8:50 a.m.]

UNIVERSITY OF ALABAMA MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment,

Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 68-00046-33-46040. Applicant: University of Alabama Medical Center, 1919 Seventh Avenue South, Birmingham, Ala. 35233. Article: Ultra-high resolution Electron Microscope. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Instrument to be used to study fine structure of cells and tissues. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, Model EMU-4 electron microscope, manufactured by Radio Corporation of America (RCA) has a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving power.) For the purposes for which the foreign article is intended to be used, we find that the difference in resolving power is significant. (2) The foreign article provides four accelerating voltages, 25, 50, 75, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage (25 kilovolts) provides optimum contrast for ultrathin unstained sections, and that the voltages intermediate between 50 and 100 kilovolts provide optimum contrast for negatively stained specimens. For the purposes for which the foreign article is intended to be used, we find the availability of the 25 and 75 kilovolt accelerating voltages to be pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other scientific instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12763; Filed, Oct. 27, 1967; 8:49 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No.: 67-00096-30-82600. Applicant: University of California, Lawrence Radiation Laboratory, End of East Avenue, Livermore, Calif. 94550. Article: Mettler Recording Vacuum Thermoanalyzer and ancillary equipment. Manufacturer: Mettler Instrument Corp., Switzerland. Intended use of article: Applicant states:

> This instrument will be used for Research purposes by the University of California's Lawrence Radiation Laboratory * * *. The specific usage will be in the area of materials analysis by High Explosive Chemistry for support of detonator research and development in weapons applications.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the simultaneous determination of differential thermoanalysis (DTA) and thermogravimetric analysis (TGA). The National Bureau of Standards advises that the simultaneous determination to DTA and TGA is pertinent to the purposes for which the foreign article is intended to be used (memorandum dated Aug. 1, 1967). The National Bureau of Standards also states in cited memorandum that it knows of no domestic instrument that allows for simultaneous determination of DTA and TGA.

The Department of Commerce is not otherwise aware of any instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12765; Filed, Oct. 27, 1965; 8:49 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 67-00072-33-46040. Applicant: University of California, San Francisco Medical Center, San Francisco, Calif. 94122. Article: Electron Microscope, Type Norelco EM-300 Model PW/6001 with cooling device, Model PW/6526 and film desiccator PW/6529. Manufacturer: Philips Glodelamp Industry, Interhoven, The Netherlands. Intended use of article: Ultrastructure of cells and macromolecules will be investigated. Effects of lipid extraction on mammalian heart mitochondria will be compared to a widely accepted model. Location of inner membrane particles as well as their morphology and persistence will be revealed. Comments: Comments with respect to this application have been received from one domestic manufacturer, Radio Corporation of America (RCA), which alleged inter alia that "The RCA Model EMU-4 Electron Microscope with the following accessory [cold and anticontamination stage] is of equivalent scientific value to the instrument for which duty-free entry has been requested for the purposes stated in the application for which the instrument is intended to be used." (Par (3) of RCA comments dated June 9, 1967.) Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a guaranteed resolving power of 5 Angstroms (specification sheet for Norelco EM-300 electron microscope, attached to application), whereas the RCA Model EMU-4 has a guaranteed resolving power of 8 Angstroms (specifications for EMU-4 electron microscope, attached to comments of RCA cited above). (The lower the numerical rating in terms of Angstroms, the better the resolving power.) We are advised by the National Bureau of Standards (NBS) that the difference in resolving power is very significant in connection with the purpose of the applicant to extend investigations to the finest structure that can be observed. (See memorandum from NBS dated Aug. 1, 1967.) (2) The foreign article provides 5 accelerating voltages, 20, 40, 60, 80, and 100 kilovolts (specifications for Norelco EM-300 cited above), whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts (specifications for RCA Model EMU-4 cited above).

We are advised by the Department of Health, Education and Welfare (HEW) that the best contrast in unstained biological material is obtained at low accelerating voltages. (See memorandum from HEW dated July 26, 1967.) HEW has furnished us with a list of published studies on the use of the lower voltages in electron microscopy (memorandum from HEW dated June 27, 1967).

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12766; Filed, Oct. 27, 1967; 8:49 a.m.]

UNIVERSITY OF MINNESOTA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00037-33-46040. Applicant: University of Minnesota, Cell Biology Program, St. Paul, Minn. 55101. Article: Electron Microscope, Hitachi Perkin-Elmer Model HU-11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

The research project for which this instrument is primarily intended is a study of the ultrastructure of biological membranes. * * * Specifically, we are studying the structural organization of the electron transport enzymes of both plant and animal mitochondria. The individual enzyme molecules in this system appear to range between 20-100 A° in size and are arranged in the membrane in patterns or complexes which control the activity of the system. We intend to observe these enzyme molecules both in the normal condition and after alteration in an effort to understand their role in cellular metabolism.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, Model EMU-4 electron microscope, manufactured by Radio Corporation of America (RCA) has a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving power.) For the purposes for which the foreign article is intended to be used, we find that the difference in resolving power is significant. (2) The foreign article provides four accelerating voltages, 25, 50, 75, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage (25 kilovolts) provides optimum contrast for ultrathin unstained sections, and that the voltages intermediate between 50 and 100 kilovolts provide optimum contrast for negatively stained specimens. For the purposes for which the foreign article is intended to be used, we find the availability of the 25 and 75 kilovolt accelerating voltages to be pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other scientific instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12769; Filed, Oct. 27, 1967; 8:49 a.m.]

VETERANS ADMINISTRATION HOSPITAL, BIRMINGHAM, ALA.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00021-33-46040. Applicant: Veterans Administration Hospital, 700 South 19th Street, Birmingham, Ala. 35233. Article: Electron Microscope, Hitachi Perkin-Elmer Model HU-11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: Applicant states:

The Electron Microscope will be used to study the fine cell structure of the Central Nervous System. * * *

Specifically, the ultrahigh resolution Electron Microscope will be used to study ultrastructural alterations of the cerebral arteries and parenchyma, the ependymal lining and subependymal glia of the ventricles after administration of various chemotherapeutic drugs used in the treatment of malignant tumors of the Central Nervous System.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, Model EMU-4 electron microscope, manufactured by Radio Corporation of America (RCA) has a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving power.) For the purposes for which the foreign article is intended to be used, we find that the difference in resolving power is significant. (2) The foreign article provides four accelerating voltages, 25, 50, 75, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage (25 kilovolts) provides optimum contrast for ultrathin unstained sections, and that the voltages intermediate between 50 and 100 kilovolts provide optimum contrast for negatively stained specimens. For the purposes for which the foreign article is intended to be used, we find the availability of the 25 and 75 kilovolt accelerating voltages to be pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other scientific instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12772; Filed, Oct. 27, 1967; 8:50 a.m.]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00007-33-46040. Applicant: Yale University, Bureau of Purchases, 20 Ashmun Street, New Haven, Conn. 06520. Article: Electron Microscope, Norelco Model EM-300 with Anticontamination Device and Chiller. Manufacturer: Philips Electronics N-V.D., The Netherlands. Intended use of article: The article will be used for research on the fine structure of extruded strands of DNA from animal viruses. DNA floated on a thin film of protein will be picked up on the electron microscope grids. In addition, the internal structures of poxviruses and of infectious bronchitis virus will be studied with both sectioned and negatively stained material. The fine structures of stalked bacteria will be studied. The sites and activity of enzymes within the mother-cell and hyphae of DNA will also be investigated. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a specified resolving power of 5 Angstroms (according to point-to-point criteria), whereas the only known comparable domestic instrument, Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA) has a specified resolution of 8 Angstroms (according to the Fresnal fringe criteria). (See reply to Question 9 of application.) (The smaller the numerical rating in terms of Angstrom units, the better the resolving power.) We are advised by the Department of Health, Education, and Welfare (memorandum dated October 9, 1967), that the purposes for which the foreign article is intended to be used establish the resolving power as a pertinent characteristic. (2) The foreign article specifies five accelerating voltages, 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 specifies only two accelerating voltages, 50 and 100 kilovolts. It had been established that the lower accelerating voltages provide optimum contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts provide the optimum contrast for negatively stained specimens.

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12773; Filed, Oct. 27, 1967; 8:50 a.m.]

UNIVERSITY OF MARYLAND

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00027-33-46040. Applicant: University of Maryland, Botany Department, H. J. Patterson Hall, College Park, Md. 20740. Article: Electron Microscope, Hitachi Perkin-Elmer Model HU-11C. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The microscope will be used mainly for the program on plant virus research. The leaf-dip technique of Brandes and associates (Advance Virus Research 11: 1-24, 1965) for determining virus particle morphology and size has proved the electron microscope as a very useful tool for the diagnosis of plant virus diseases. Virology currently under investigation is the effect of the virus on the host, especially in the early stages of virus infection. The specificity of the seriological reaction is being investigated by the electron microscopy of ultrathin sections of precipitin zones from double-gel diffusion tests. The phenomena of EDTA on the protein shell or coat of the virus particle which exposes viral nucleic acid will be examined before and after treatment with EDTA (ethylene diaminetetraacetate). Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article has a guaranteed resolution of 5 Angstroms. The only known comparable domestic instrument, Model EMU-4 electron microscope, manufactured by Radio Corporation of America (RCA) has a guaranteed resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstroms, the better the resolving power.) For the purposes for which the foreign article is intended to be used, we find that the difference in resolving power is significant. (2) The foreign article provides four accelerating voltages, 25, 50, 75, and 100 kilovolts, whereas the RCA Model EMU-4 provides only two accelerating voltages, 50 and 100 kilovolts. It has been experimentally established that the lower accelerating voltage (25 kilovolts) provides optimum contrast for ultrathin unstained sections, and that the voltages intermediate between 50 and 100 kilovolts provide optimum contrast for negatively stained specimens. For the purposes for which the foreign article is intended to be used, we find the availability of the 25 and 75 kilovolt accelerating voltages to be pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 electron microscope is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other scientific instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12763; Filed, Oct. 27, 1967; 8:49 a.m.]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00006-33-15900. Applicant: Yale University, Bureau of Purchases, 20 Ashmun Street, New Haven, Conn. 06520. Article: Steady State Distribution Machine, Model 110/25F. Manufacturer: Quickfit & Quartz, Ltd., England. Intended use of article: Applicant states:

> The Quickfit Reeve Angel Steady State Distribution Machine will be used for separating the complex mixture of transfer RNA (ribonucleic acid) species from Escherichia coli in order to obtain highly purified fractions of certain individual species.

Comments: No comments have been received with respect to this application. Decision: Application denied. An instrument of equivalent scientific value to the foreign article, for the purposes for which the foreign article is intended to be used, is being manufactured in the United States. Reasons: We are advised by the Department of Health, Education, and Welfare (HEW) (memorandum dated Sept. 19, 1967), that a domestic instrument manufactured by H. O. Post Co. is equivalent to the foreign article in the following respects: (1) Both the foreign article and the Post instrument have programmable automatic inputs; (2) both the foreign article and the Post instrument permit either upper or lower

phase to be selectively transferred simultaneously or individually; (3) both the foreign article and Post instrument permit up to 1,000 cells to be assembled for broad "search" problems; (4) both the foreign article and Post instrument permit as few as 100 cells to be used for concentration and purification needs; and (5) both the foreign article and Post instrument will separate compounds with a Beta value of 1.1 in such a 100-cell train. For these reasons, we find that the Post instrument is of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

CHARLEY M. DENTON,
Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 67-12774; Filed, Oct. 27, 1967; 8:50 a.m.]

Maritime Administration

MOORE-McCORMACK LINES, INC.

Notice of Application for Approval of Certain Cruises

Notice is hereby given that Moore-McCormack Lines, Inc., acting pursuant to Public Law 87-45, has applied to the Maritime Administration for approval of the following cruises:

Ship	Commences 1968	Terminates 1968	Itinerary
Argentina	Jan. 7	Jan. 12	Port Everglades, San Juan, St. Thomas, Port Everglades.
Do	Jan. 13	Jan. 26	Port Everglades, Kingston, Curacao, La Guaira, Barbados, Martinique, St. Thomas, San Juan, Port Everglades.
Do	Jan. 27	Jan. 29	Port Everglades, Nassau, New York.
Brasil	Jan. 25	Feb. 2	New York, San Juan, St. Thomas, New York.
Do	Feb. 3	Feb. 12	New York, San Juan, St. Thomas, Martinique, New York.
Argentina	Mar. 22	Apr. 4	New York, San Juan, St. Thomas, Guadeloupe, Barbados, Curacao, New York.
Do	Apr. 5	Apr. 15	New York, Baltimore, San Juan, St. Thomas, Martinique, Baltimore.
Do	Apr. 16	Apr. 21	Baltimore, Bermuda, Baltimore.
Do	Apr. 22	Apr. 28	Baltimore, San Juan, St. Thomas, Baltimore.
Brasil	Apr. 26	May 2	New York, Bermuda, New York.
Argentina	Apr. 29	May 5	Baltimore, Freeport, Nassau, Baltimore.
Brasil	May 3	May 12	New York, San Juan, St. Thomas, Guadeloupe, New York.
Argentina	May 6	May 10	Baltimore, Bermuda, Baltimore.
Do	May 11	May 16	Do.
Brasil	May 13	May 19	New York, Philadelphia, Bermuda, Philadelphia.
Argentina	May 17	May 22	Baltimore, Bermuda, Baltimore, New York.
Brasil	May 20	June 3	Philadelphia, San Juan, St. Thomas, Philadelphia, New York.
Do	Sept. 18	Oct. 16	New York, Funchal, Casablanca, Alicante, Naples, Cannes, Barcelona, Palma, Lisbon, New York.
Do	Oct. 17	Nov. 4	New York, San Juan, St. Thomas, Martinique, Barbados, Trinidad, LaGuaira, Curacao, Kingston, Bermuda, New York.
Do	Nov. 5	Nov. 13	New York, St. Thomas, San Juan, New York.
Argentina	Dec. 17	Dec. 21	New York, Nassau, Port Everglades.
		1969	
Do	Dec. 22	Jan. 3	Port Everglades, San Juan, St. Thomas, Barbados, Curacao, Cristobal, Port Everglades.

Any person, firm or corporation having any interest, within the meaning of Public Law 87-45, in the foregoing who desires to offer data, views, or arguments should submit the same in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20235, by close of business on November 10, 1967.

In the event an opportunity to present oral argument is also desired, specific reason for such request should be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

Dated: October 24, 1967.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 67-12713; Filed, Oct. 27, 1967; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

GENERAL TIRE & RUBBER CO.

Notice of Withdrawal of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409) (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), The General Tire & Rubber Co., 1708 Englewood Avenue, Akron, Ohio 44309, has withdrawn its petition (FAP 7B2152), notice of which was published in the FEDERAL REGISTER of April 13, 1967 (32 F.R. 5962), proposing an amendment to § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* to provide for the safe use of styrene-butadiene-acrylonitrile-methacrylic acid copolymers, containing not more than 20 weight percent of total polymer units derived from methacrylic acid, as components of the food-contact surface of paper and paperboard.

Dated: October 23, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-12755; Filed, Oct. 27, 1967; 8:48 a.m.]

NATIONAL LABORATORIES CORP.

Notice of Filing of Petition for Food Additive Furosemide (4-Chloro-N-Furfuryl-5-Sulfamoylanthranilic Acid)

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition has been filed by The National Laboratories Corp., 1722 Main Street, Kansas City, Mo. 64108, proposing the issuance of a food additive regulation to provide for the safe use of furosemide (4-chloro-N-furfuryl-5-sulfamoylanthranilic acid) as a diuretic-saluretic in cattle by parenteral or oral administration.

Dated: October 19, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-12756; Filed, Oct. 27, 1967; 8:48 a.m.]

3M CO.

Notice of Withdrawal of Petition for Food Additive Polonium 210

Pursuant to the provision of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), 3M Co., 2501 Hudson Road, St. Paul, Minn. 55119, has withdrawn its petition (FAP 7M2128), notice of which was published in the FEDERAL REGISTER of January 18, 1967 (32 F.R. 584), proposing the issuance of a regulation to provide for the safe use of polonium 210 as a source of alpha-particle

radiation for the elimination of static electricity in food-packaging operations.

Dated: October 19, 1967.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 67-12757; Filed, Oct. 27, 1967; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 481]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 25, 1967.

The following are notices of filing of applications for temporary authority unde section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has beer made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in tha field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 29120 (Sub-No. 95 TA), filed October 18, 1967. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Post Office Box 756, ZIP 57101, Sioux Falls, S. Dak. 57104. Applicant's representative: E. J. Dwyer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk, in tank vehicles); from Madison, S. Dak., and Sioux Falls, S. Dak., to points in Indiana, Michigan, and Ohio, for 180 days. Supporting shipper: John Morrell & Co., 1400 North Weber, Sioux Falls, S. Dak. 57103, Claude Stewart, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 39443 (Sub-No. 20 TA), filed October 18, 1967. Applicant: THOMPSON, INC., 4800 Broadway, Quincy, Ill. 62301. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds*, in bulk, and *dry animal and poultry feed ingredients*, in bulk, between Quincy, Ill., on the one hand, and, on the other, points in Kansas, Michigan, Minnesota, Ohio, and Indiana, for 180 days. Supporting shipper: Moorman Manufacturing Co., 1000 North 30th Street, Quincy, Ill. 62301. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 67200 (Sub-No. 24 TA), filed October 18, 1967. Applicant: THE FURNITURE TRANSPORT COMPANY, INC., Furniture Row, Post Office Box 392, Milford, Conn. 06460. Applicant's representative: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, N.Y. 11432. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Turners Falls, Mass., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey, and *returned, refused or rejected shipments* on return; for 180 days. Supporting shipper: Village Furniture, Inc., 11th Street, Post Office Box 375, Turners Falls, Mass. Send protests to: District Supervisor, David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 82861 (Sub-No. 14 TA), filed October 18, 1967. Applicant: BROOKS TRUCK LINE, INC., Post Office Box 40, Puyallup, Wash. 98372. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap Metal*, between Tacoma, Wash., and the international boundary line between the United States and Canada at or near Blaine and Sumas, Wash.; (Restricted to shipments moving to or from points in British Columbia, Canada); for 180 days. Supporting shipper: General Metals of Tacoma Inc., 1919 Canal Street, Tacoma, Wash. 98421. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 83217 (Sub-No. 32 TA), filed October 18, 1967. Applicant: DAKOTA EXPRESS, INC., Wilson Terminal Building, 110 North Reid Street, Post Office Box 1252, Sioux Falls, S. Dak. 57101. Applicant's representative: Henry J. Schuette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates;* from Madison and Sioux Falls, S. Dak.; to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Virginia, and District of Columbia; for 180 days. Supporting shipper: John Morrell & Co., 1400 North Weber Avenue, Sioux Falls, S. Dak. 57103, Claude Stewart, Traffic Manager; Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 107496 (Sub-No. 596 TA), filed October 18, 1967. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Zip 50304, Des Moines, Iowa 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *dry coal tar pitch*, in bulk, in pneumatic tank vehicles, from Cleveland, Ohio, to Glenwood, Minn.; for 150 days. Supporting shipper: Reilly Tar & Chemical Corp., 11 South Meridian Street, Indianapolis, Ind. 46204. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Federal Office Building, Des Moines 50309.

No. MC 110420 (Sub-No. 554 TA), filed October 18, 1967. Applicant: QUALITY CARRIERS, INC., 100 South Calumet Street, Burlington, Wis. 53105, Post Office Box 339. Applicant's representative: Allan B. Torhorst (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite of Pet, Inc., at Frankfort, Mich., to points in Illinois, Indiana, Minnesota, and Wisconsin, for 180 days. Supporting shipper: Pet, Inc., Post Office Box 392, St. Louis, Mo. 63166 (E. L. Forturne, Distribution Manager, Frozen Foods Division). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 123508 (Sub-No. 2 TA), filed October 19, 1967. Applicant: M. AND W. CORPORATION, 301 West Commercial Street, Lowell, Ind. 46356. Applicant's representative: Warren C. Moberly, 1212 Fletcher Trust Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory materials*, packaged and palletized, and in bulk, from Schneider, Industries, to those points in the Chicago commercial zone in the State of Illinois, for 180 days. Supporting shipper: Carb-Rite Co., Schneider, Industries. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 308 Federal Building, Fort Wayne, Ind. 46802.

No. MC 129409 (Sub-No. 1 TA), filed October 18, 1967. Applicant: FLOOK, INC., 106 Catoctin Avenue, Frederick, Md. 21701. Applicant's representative:

Daniel B. Johnson, Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *concrete products and building materials;* from Hagerstown and Frederick, Md.; to Washington, D.C., and points in Arlington, Loudoun, Fairfax, and Prince William Counties, Va., and Alexandria and Falls Church, Va., under contracts with Supreme Concrete, Inc., for 150 days. Supporting shipper: Supreme Concrete, Inc., Hagerstown, Md. Send protects to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 129456 (Sub-No. 2 TA), filed October 18, 1967. Applicant: TRANS CANADIAN COURIERS LTD., 119 Adelaide Street, West, Suite 106, Toronto, Ontario, Canada. Applicant's representative: Gerard Peace, 222–17 Northern Boulevard, Bayside, N.Y. 11361. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments and business records* (except currency and negotiable securities), from the international boundary line between the United States and Canada at the Niagara River at or near Niagara Falls, N.Y., and Fort Erie, Ontario, to the municipality of Buffalo, N.Y., on behalf of the Royal Bank of Canada, for 150 days. Supporting shipper: The Royal Bank of Canada, 20 King Street, West, Toronto 1, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 129472 TA, filed October 18, 1967. Applicant: ASSOCIATED AIR CARGO, INC., 969 Bridgeport Avenue, Milford, Conn. 06460. Applicant's representative: William J. Meuser, 101 River Street, Milford, Conn. 06460. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* of (except commodities of extraordinary value, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), having a prior or subsequent movement by air, between John F. Kennedy International Airport, New York, N.Y., and La Guardia Airport, New York, N.Y., and Newark Airport, Newark, N.J., on the one hand, and, on the other, Branford, Bridgeport, Derby, Hamden, New Haven, North Haven, Shelton, Stratford, Wallingford, Conn., for 180 days. Supporting shippers: There are approximately (12) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 67-12733; Filed, Oct. 27, 1967; 8:46 a.m.]

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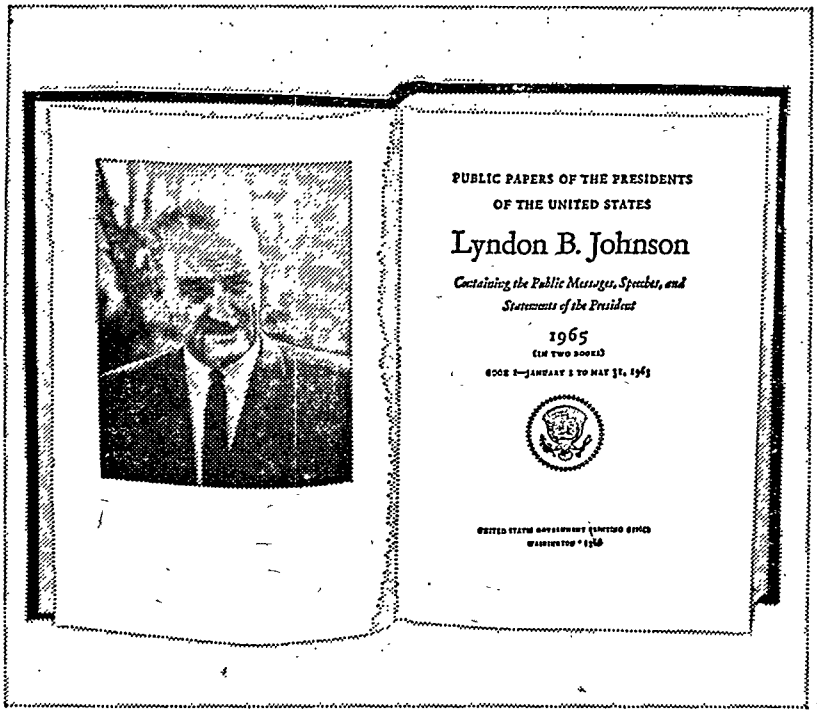

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